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THE INTERNATIONAL NAVAL CONFERENCE AND THE DECLARATION OF LONDON

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Although the Naval Conference which met at London, December 4, 1908, grew out of the Second Peace Conference it differed from the latter both in its composition and its object.

In an historic session at the Hague, in June 1907, Germany and England proposed to the powers assembled to establish an international prize court. The two projects were referred to the first commission, and by the latter to a subcommission, which again appointed a committee of three, (Renault of France, Kriege of Germany, and Crowe of Great Britain) to combine them and draw up a project for submission to the commission.

It is hard to realize the significance of the work of those three jurists, each as familiar with the practical transaction of international business as with the theory and underlying principles of international law. To them, primarily, is due the elaboration of the convention for the establishment of an international prize court. Nor should we forget that the American delegation at the Hague gave the project its vigorous support, so that it was presented to the conference in the name of four of the greatest maritime powers.

As submitted to the conference in plenary session for approval the convention for the establishment of an international prize court was adopted by a vote of 37 states against 1 —that of Brazil. Six states, The Dominican Republic, Japan, Russia, Siam, Turkey and Venezuela, abstained from taking part in the vote. This adoption of

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the convention by a vote of 37 to 1 was, perhaps, the most remarkable achievement of the conference. It must, however, be remembered that ten states made reservations regarding the most important article—15, which reads:

"The judges appointed by the following contracting powers: Germany, the United States of America, Austria-Hungary, France, Great Britain, Italy, Japan, and Russia, are always summoned to sit.

The judges and deputy judges appointed by the other contracting powers sit by rota as shown in the table annexed to the present convention; their duties may be performed successively by the same person. The same judge may be appointed by several of the said powers."

Thirteen more did not sign the convention, and there has been some discussion as to the probability of its ratification by certain of the signatory states.

Great Britain who joined Germany in making the first proposal to establish an international prize court did not sign the convention which she had, conjointly with France, Germany and the United States, championed before the conference, because her statesmen thought its terms gave such extensive powers to the judges as might endanger the existence of the very principles which that country had so gloriously maintained for generations.

Article 7 of the convention defines the competence of the court as follows:

"If a question of law to be decided is covered by a treaty in force between the belligerent captor and a power which is itself, or the subject or citizen of which is, a party to the proceedings, the court is governed by the provisions of the said treaty.

"In the absence of such provisions, the court shall apply the rules of international law. If no generally recognized rule exists, the court shall give judgment in accordance with the general principles of justice and equity.

"The above provisions apply equally to questions relating to the order and mode of proof."

It was precisely because of the divergency of their interests that the powers had never been able to agree as to the rules to apply to international maritime warfare. There have been, and always must be

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from the nature of things, two schools of international law; those who advocate the extension or the maintenance of belligerent rights and those who seek to restrain belligerent rights. There is no possibility of agreement between these two camps—they are as irreconcilable as fire and water—and will be found in opposition as long as independent states exist. The powerful state which advocates the extension or maintenance of belligerent rights is curbed by force and force alone, whether it be the combined force of weaker states or that indefinable sentiment we call public opinion. For generations the divergence of opinion regarding the rules of international law to apply to maritime warfare was nothing more than a reflection of the views of these two schools—but gradually a change has come about. The great liberty of belligerent action, which certain states had fought to preserve, proved to be most disastrous to the interests of these same states when neutral. It took, however, the Russo-Japanese war to drive this lesson home to England in a most forcible manner; for after one or two seizures of contraband the premiums for insurance rose to an almost prohibitive rate and this was principally due to the impossibility of determining just what was, or would be, considered contraband. The catholic character of the declarations of Russia and Japan which embraced so many articles likewise bore very hardly upon legitimate neutral interests. The two great commercial nations whose commerce had been most affected by the war lost no time in proposing the establishment of an international court of prize which should guarantee their vast commercial interests from being jeopardized whenever two nations felt inclined to resort to arms. As proposed the court would certainly be inclined to protect neutrals because a majority of its judges would almost surely be from neutral states with great or relatively great commercial interests; furthermore article 7 declares that "if no generally recognized rule exists, the court shall give judgments in accordance with the general principles of justice and equity." Great as was the protection to England's trade when neutral she might well hesitate to purchase it at the cost of too great a sacrifice of British interests when belligerent. To weaken the offensive value of her mighty navy would mean to lessen its—and consequently Great Britain's—prestige. The British public understands too well the important part their navy has played in their commercial development.

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Actuated by these considerations Great Britain proposed to call a conference "with the object of arriving at an agreement as to what are the generally recognized principles of international law, within the meaning of paragraph 2 of article 7 of the convention, as to those matters wherein the practice of nations has varied, and of then formulating the rules which, in the absence of special treaty provisions applicable to a particular case, the court should observe in dealing with the appeals brought before it for decision."[1]

In restricting the invitation to Austria-Hungary, France, Germany, Italy, Japan, Russia, Spain, and the United States,[2] Great Britain considered "the rules by which appeals from national prize courts would be decided affect the rights of belligerents in a manner which is far more serious to the principal naval powers than to others." This is undoubtedly a good and valid reason but it does not explain why great powers like the republics of Argentine, Brazil, and Mexico, and the empire of China should be passed over while Spain was invited. Perhaps the real reason was the practical impossibility of reaching an agreement regarding such difficult questions at a large conference. Besides, where harmony was the first requisite to success, it would have been disastrous to have invited any power, that had voted against the prize court project or made a reservation regarding the 15th article.[3]

The questions upon which the British government considered "it to be of the greatest importance that an understanding should be reached are those as to which divergent rules have been enforced in the prize courts of different nations." It is therefore suggested that the following questions should constitute the program of the conference:

"(*a*) Contraband, including the circumstances under which par-

[1] From Sir Edward Grey's instructions to the representatives of Great Britain at Berlin, Madrid, Paris, Rome, St. Petersburgh, Tokio, Vienna, and Washington directing them to invite the governments to which they were accredited to send delegates to a conference to meet in London for the purpose above mentioned. See Parliamentary Papers, miscellaneous, no. 4 (1909), p. 2.

[2] The invitation was subsequently extended to the Netherlands within whose territory it is proposed to have the international prize court sit.

[3] The states which made reservations in signing the convention were: Chile, Cuba, Ecuador, Guatemala, Haiti, Persia, Salvador, Siam, Turkey, Uruguay.

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ticular articles can be considered as contraband; the penalties for their carriage; the immunity of a ship from search when under convoy; the rules with regard to compensation where vessels have been seized but have been found in fact only to be carrying innocent cargo;

(*b*) Blockade, including the questions as to the locality where seizure can be effected, and the notice that is necessary before a ship can be seized;

(*c*) The doctrine of continuous voyage in respect both of contraband and of blockade;

(*d*) The legality of the destruction of neutral vessels prior to their condemnation by a prize court;

(*e*) The rules as to neutral ships or persons rendering "unneutral service" ("*assistance hostile*");

(*f*) The legality of the conversion of a merchant-vessel into a warship on the high seas;

(*g*) The rules as to the transfer of merchant-vessels from a belligerent to a neutral flag during or in contemplation of hostilities;

(*h*) The question whether the nationality or the domicile of the owner should be adopted as the dominant factor in deciding whether property is enemy property."

The British government further suggested that the governments invited "interchange memoranda setting out concisely what they regard as the correct rule of international law on each of the above points, together with the authorities on which that view is based." This was done by all except the United States which confined themselves, according to the despatch of the British Mission, "to the statement that their attitude in this matter is well known and has not changed, and support this with quotations from the instructions issued to their delegates at the Second Hague Conference and with copies of the naval war code." The latter,[4] while not a memorandum was suggested to the conference as a basis for its conclusions.

M. Louis Renault, who had played so conspicuous, not to say predominant a part in the work at the Hague,[5] was invited by the

[4] The code was presented with certain amendments of detail adopted by the government.

[5] Besides his work as reporter general of the Hague Conference he made separate reports, notably that on the proposed convention for the establishment of an interna-

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British government to draw up before the opening of the conference a set of "bases" for discussion or adoption which should give due weight and consideration to the various doctrines and views of the different powers. It was hoped that his intervention, considering his profound knowledge and the universal respect in which he was held, might have the same happy result as when he had combined in such an incomparable manner the British and German proposals for the establishment of an international court of prize. He was however detained in Berlin in the settlement of the Casa Blanca incident and as President of the International Copyright Union then in conference. In the absence of M. Renault, the task was intrusted to M. Fromageot, who as a Frenchman thoroughly conversant with every detail of the subject and for years associated with his illustrious countryman was the best possible substitute. To add to his other qualifications, M. Fromageot had been reporter of the fourth commission at the Hague to which had been entrusted the study of the very questions contained in the program of the London Naval Conference.

The conference convened in the large hall of the foreign office, and after the usual formalities adopted rules of procedure almost identical with those of the Second Peace Conference.

During the first five plenary sessions the conference examined the bases of discussion drawn up by M. Fromageot and gave the delegations an opportunity to offer amendments. In this manner the greater part of what each memorandum contained, with slight modifications, was formally laid before the conference. At the fourth plenary session, the commission was constituted —its sessions differing from the plenary only in that M. Renault replaced Lord Desart as presiding officer and that no formal procès verbal was kept. The résumés or informal accounts of these meetings were later revised by the conference and published, but the whole procedure was less formal.

The commission as soon as constituted took up again the consideration of the bases and amendments relating to blockade.

tional prize court, the articles of which he drew up so carefully and so admirably that the greater number of them were later incorporated, practically without modification, into the project for the creation of a court of arbitral justice, annexed to the final act of October 18, 1907.

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In beginning with blockade the commission was anxious to discuss a matter of sufficient importance to bring out the fundamental views of the various delegations and to test their good will and willingness to meet one another on a basis of equitable compromise. All the great powers too were unanimous in thinking nothing should be done to impair the effectiveness of blockade as a weapon of offense.

Before adjourning over the holidays the conference had practically reached an agreement regarding blockade so that the comité d'examen had only to put these resolutions into shape to have them accepted by the commission at its seventh session unanimously,—except that Admiral Stockton made a reservation for the American delegation regarding article 19, which abolishes continuous voyage as applied to contraband; and that Admiral Sakomoto, first delegate of Japan, made a reservation on article 17 as to the extent of the "area of operations" within which seizures might be made. A few minutes later when the commission resumed the discussion of contraband, Admiral Stockton announced that the American delegation would accept the abolition of the doctrine of continuous voyage as applied to blockade and conditional contraband on condition that it be retained for absolute contraband.

After finishing the discussion of blockade the work of the commission consisted principally in receiving amendments and the second reading of the bases. Each question was then referred to the comité d'examen composed of one member from each delegation.

Another member of a delegation would take the place of the designated member for the discussion of any particular matter which he had had under his supervision; but in truth the more important decisions were the result of still less formal discussion between the heads of the delegations of the three or four great powers:

Lord Desart as president of the conference and first delegate of Great Britain; Professor Renault and Doctor Kriege of France and Germany have been already mentioned as members of the Hague committee which elaborated the convention for the establishment of the international prize court; the United States appointed Rear-Admiral Charles H. Stockton and Prof. George G. Wilson as its delegates to the conference. Both have been connected with the Naval War College at Newport; Admiral Stockton, formerly as president, and

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Professor Wilson as lecturer. They, therefore, had unrivaled opportunities to study problems of naval policy and international law in a most thorough and practical manner. It was while at the Naval War College that Admiral Stockton drew up the naval war code which our government submitted to the conference. Messrs. Fromageot, Crowe and Hurst of the French and British delegations participated in many of these informal discussions, and acted as intermediaries to bring about agreements.

The most difficult question contained in the program—the determination of enemy character—was referred to a special committee, which agreed upon some excellent rules covering certain matters of detail but could reach no agreement capable of reconciling the advocates of the principle of nationality with those in favor of domicile. This is certainly one of the most difficult questions which remains to be settled and it is to be hoped that it will be carefully examined so as to find some solution to submit for discussion and approval by the Third Peace Conference. The great inconveniences of conflicting rules would, however, be preferable to the abandonment of the principle of domicile. Nationality has many sentimental arguments in its favor and above all its definiteness, but domicile is based upon facts and interests and it is doubtful whether the principle of nationality would stand the test of a great war.

The committee reached a happy agreement regarding the destruction of neutral prizes. This was due above all to the spirit of mutual concession and largeness of view which prevailed. M. Renault made the beautifully simple suggestion that the question as to whether the circumstances justifying the destruction were present should first be decided by the prize court, examining the case, and whenever it should find them to be absent that damages should be awarded irrespective of whether the condemnation would have been declared by the court.

The general principle was first agreed upon that "a neutral vessel which has been captured may not be destroyed by the captor," but "must be taken into such port as is proper for the determination there of all questions concerning the validity of the capture" (article 48), and then it was further declared: "As an exception, a neutral vessel which has been captured by a belligerent warship, and which

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would be liable to condemnation, may be destroyed if the observance of article 48 would involve danger to the safety of the warship or to the success of the operations in which she is engaged at the time" (article 49).

This solution is indeed a triumph when it is remembered with what acrimony the question was discussed at the Hague the year before, and what little prospect there appeared to be of ever reaching an agreement. At the beginning of the London Conference an influential Russian paper had expressed the fear that the discussion of this question might endanger the cordial relations then existing between Great Britain and Russia.

The real heart of things was reached when the discussion of contraband was taken up in earnest. In the first place all the powers recognized that more certainty as to what constituted contraband was necessary to give any security to neutral trade and to prevent the widening of the circle of hostilities through the irritation of neutrals. Germany was anxious to do away with the doctrine of continuous voyage entirely, and Great Britain and the United States would have liked to secure greater protection for neutrals carrying conditional contraband, including provisions. England, in her desire to reach an agreement was, or appeared to be, ready to abandon the doctrine of continuous voyage altogether, though probably if the American delegation had not been there to defend her time-honored practice the British delegation would have shown a much less yielding disposition. However that may be, certain it was that the concession of the American delegation by which it was agreed to abandon continuous voyage applied to blockade and conditional contraband provided it were retained for absolute contraband made possible the series of agreements and compromises leading up to the final declaration.

Fearing that a prolonged and general discussion on contraband might find the delegates further from agreement than at the start the British delegation submitted a project which contained three lists: First, a list of articles of absolute contraband which had been drawn up at the Hague by the comité d'examen of the fourth commission. Any article found therein may always be considered contraband of war; other articles exclusively used for war may be added to this list, but may not be seized unless they have been previously

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declared liable to seizure by the belligerents. Consequently the neutral shipper is in no danger of having the annoying doctrine of continuous voyage applied to any article not on the list excepting in the case of specially notified articles, which must even then be such as are used exclusively for warlike purposes. The second list contains certain articles capable of being used for the purposes of war and peace alike, which may be confiscated without previous notice when "shown to be destined for the use of the armed forces or a government department of the enemy state, unless in the latter case the circumstances show that the goods cannot in fact be used for the purposes of the war in progress" (article 33)—to this list, also, other articles may be added, provided they are capable of being used for the purposes of war and that they are not included in the third or Free List. None of the following articles included in this list may be seized as contraband under any circumstances:

(1) Raw cotton, wool, silk, jute, flax, hemp, and other raw materials of the textile industries, and yarns of the same. (2) Oil seed and nuts; copra. (3) Rubber, resins, gums, and lacs; hops. (4) Raw hides and horns, bones, and ivory. (5) Natural and artificial manures, including nitrates and phosphates for agricultural purposes. (6) Metallic ores. (7) Earths, clays, lime, chalk, stone, including marble, bricks, slates and tiles. (8) Chinaware and glass. (9) Paper and paper-making materials. (10) Soap, paint, and colors including articles exclusively used in their manufacture, and varnish. (11) Bleaching powder, soda ash, caustic soda, salt cake, ammonia, sulphate of ammonia, and sulphate of copper. (12) Agricultural, mining, textile, and printing machinery. (13) Precious and semi-precious stones, pearls, mother-of-pearl, and coral. (14) Clocks and watches, other than chronometers. (15) Fashion and fancy goods. (16) Feathers of all kinds, hairs and bristles. (17) Articles of household furniture and decoration; office furniture and requisites.

As cotton and other important articles of export from the United States are included in this list it is most favorable to our interests It has been roughly estimated that over $800,000,000 annually of exports from this country would be included in this list and be secured from all molestation. Business men and every cotton grower may well rejoice at this result.

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"A vessel carrying contraband may be condemned if the contraband, reckoned either by value, weight, volume, or freight, forms more than half the cargo" (article 40). It was not claimed that this article was of a judicial nature and certain powers that wished to make the proportion less in case of absolute contraband could maintain that position very logically. The rule does, however, provide a criterion easy of application. Great Britain declared that when in a spirit of conciliation she had agreed to the destruction of neutral prizes in certain exceptional cases where the ship was liable to be condemned she expected to have some very definite assurance that these cases would be in reality exceptional. The adoption of the proportion of one-half, and a better definition of what constituted contraband would, she felt, be the most effective safeguards against the abuses of the power to destroy such prizes. This also explains in part why Great Britain was so ready to desert her old rule for determining when a vessel was confiscable for the carriage of contraband which only required knowledge on the part of the master or owner of the presence of contraband aboard. The British project amended and modified was finally accepted by the comité d'examen, and later by the conference.

Although, as M. Renault remarks in his report to the conference, certain injuries which belligerents inflict upon neutral vessels carrying contraband or attempting to run a blockade are justified because they are violations of neutrality by furnishing assistance to the enemy. Special provisions should be made to cover certain other characteristic cases of unneutral service. The acts specifically referred to are the transportation of troops and despatches, and the placing of the ship directly under the orders of the enemy. When the offence is incidental and less serious the guilty ship is liable to the treatment awarded a neutral merchantman, confiscable for the carriage of contraband. For the more important infractions of neutrality, as when the vessel takes a direct part in the hostilities, or is in the exclusive employment of the enemy's government she is liable to condemnation, and in general to the same treatment as would be applicable to her if she were an enemy's merchant vessel (article 46). In the first case the vessel could not be destroyed except in the same circumstances which would justify the destruction of a neutral ship, and

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the cargo on board would be protected from seizure by application of the rule of the declaration of Paris. In the second case, the restrictions as to the destruction would not apply, and the cargo would be presumed to be enemy, thereby necessitating the proof of its neutral character to escape confiscation.

The long contested right of a belligerent to take from a neutral ship and make prisoner any individual embodied in armed forces of the enemy has been settled in favor of the right, but it is restricted by the agreement that "embodied" shall denote individuals who have actually joined the corps to which they belong, and not those who have been summoned to serve.

The question as to whether the taking over by a neutral during the existence of hostilities, of trade forbidden in time of peace, is an unneutral service is not settled by the regulations adopted. Great Britain probably brought the question up to keep it alive rather than with any hope of securing the recognition of her views.

The regulations regarding transfer of vessels to a neutral flag declare that the transfer of an enemy vessel to a neutral flag made before the outbreak of hostilities shall be presumed valid "unless it is proved that such transfer was made in order to evade the consequences to which an enemy's vessel, as such, is exposed" (article 55).

"A transfer of an enemy's vessel to a neutral flag effected after the outbreak of hostilities is void unless it is proved that such transfer was not made in order to evade the consequences to which an enemy's vessel, as such, is exposed" (article 56).

In the case of transfers made under certain conditions after the outbreak of hostilities there is an absolute presumption of invalidity, and this absolute presumption is reversed when transfers are made under certain other conditions more than thirty days previous to the outbreak of hostilities.

The settlement of this question of transfer to a neutral flag evidently interested England most nearly, fearing, on the one hand, to have her great merchant marine take refuge under some neutral flag, and on the other to have the merchant marine of her adversary escape from her grasp.

The United States possessing a great navy, and likely to be neutral

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in the next war is particularly well placed to benefit by such transfers, and it was only the determined attitude of the American delegation which secured such a liberal regulation. At present we are not in a position to benefit from any such transfers because they are not allowed by our laws. Our statesmen had best look to it that legislation is enacted which will allow foreign vessels to transfer to our flag—when war is imminent it will be too late. Of course, if we were to have a war with a power possessing a great merchant marine, any provision restricting transfers would be to our advantage. Furthermore we may ourselves have a great merchant marine some day and wish to prevent its transfer to another flag. The regulation adopted at London is in the nature of a compromise and naturally does not give full satisfaction to all these situations. Everything considered, it is perhaps, that best calculated to protect our interests.

The negotiations relating to this question form one of the most interesting chapters of the work of the conference, and, probably, had a much greater effect upon the compromises effected in relation to other questions than would appear.

It was found to be impossible to reach any compromise that would reconcile the divergent views regarding the transformation of a merchant vessel into a warship on the high seas, and all reference to it was left out of the declaration.

It may have been felt at the beginning of the conference that the attitude of the United States was too unyielding and that we were too insistent upon the maintenance of our traditional doctrines. The United States be it remembered had not the same immediate interests in making sacrifices to bring about an agreement that some of the other powers had; for the greater part of our commerce is divided among several foreign nations. Without international regulations, in the event of war when neutral, we could use our influence and navy to protect our neutral-borne commerce, and when belligerent would be freer in our naval operations. These selfish considerations did not, however, tempt our government to be untrue to the liberal policy regarding international relations to which it has uniformly adhered.

Besides the declaration, the conference, on the proposition of the American delegation, adopted the following wish:

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"The delegates of the powers represented at the Naval Conference which have signed or expressed the intention of signing the convention of the Hague of the eighteenth of October, 1907, for the establishment of an international prize court, having regard to the difficulties of a constitutional nature which, in some states, stand in the way of ratification of that convention in its present form, agree to call the attention of their respective governments to the advantage of concluding an arrangement under which such states would have the power, at the time of depositing their ratifications, to add thereto a reservation to the effect that resort to the international prize court in respect of decisions of their national tribunals shall take the form of a direct claim for compensation, provided always that the effect of this reservation shall not be such as to impair the rights secured under the said convention either to individuals or to their governments, and that the terms of the reservation shall form the subject of a subsequent understanding between the powers signatory of that convention."

The American delegation also proposed that the conference establish the court of arbitral justice, but it was the opinion of the delegates that it could not be done at the London Conference.

Such are the main features of the declaration of London of February 26, 1909, which has codified the greater part of prize law. At the conclusion of his paper on the Naval Conference. read at the meeting of the American Society of International Law, Admiral Sperry said:

"But in a general way it may be said that the work done in harmonizing the varying practices of the English and Continental prize courts so as to provide a body of conventional law, netiher too vague nor too rigid for the guidance of the international prize court, is remarkable. It is all the more remarkable because the English and Continental systems grew up side by side during the great maritime wars of the eighteenth and nineteenth centuries and were apparently irreconcilable since one was the law of the blockader, seeking to increase the effectiveness of the blockade, and the other was that of the blockaded seeking to relax its stringency.

Inspired by a personal knowledge of the laborious, trying and apparently futile discussions which were prolonged for nearly five

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months at the Hague in 1907, my congratulations on the work done by the London Naval Conference are most profound. Without the declaration I am compelled to believe that the international prize court would have proved a snare and a delusion instead of being a safeguard of inestimable value to the rights and interests of neutrals and belligerents alike, as it will be if this declaration is ratified. International conventional laws make an international tribunal logical and necessary."

The work of the London Conference, as has been said, is of an entirely different character from that of either of the Hague Peace conferences.

The latter are competent to discuss any matter within their program and to draw up regulations, which when adopted by the respective governments shall constitute the law for the future. The delegates assembled have no competence to declare what the law is but only what it is to be. At first view it seems strange that states which are so jealous of their sovereign power should have been more willing to delegate legislative powers to an international assembly than to consider it as a body of experts appointed to determine exactly what the law is. To declare what the law shall be certainly seems more in the domain of statescraft and high policy than would be the judicial and scientific determination of the existing law. But this latter procedure would have the aspect of a censure where the conduct of any state had not conformed to what was solemnly declared to be the law. Delegates would feel that their governments were placed on trial and relations might become strained. Furthermore, arbitrators might make awards on the basis of these conclusions against states whose conduct in the past had not conformed thereto. Both of these possibilities might restrain powers from taking part in such conferences or make them unwilling to discuss and give their assent to principles which they might really consider would be in the future both equitable and advantageous to all. By proclaiming that all the conventions at the Hague apply only to the future and by making no claim to lay down what has been the law of nations, the best interests of all are served. Another characteristic of the Hague conferences is that in spite of the theory just outlined very little of what they agree upon is in reality new. For the most part it is what has long been the customary rule observed by nations.

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Sometimes it is a rule which is found in treaties or else one which the great authorities on international law have declared to be the law. The conference of London presented neither of these characteristics of its predecessors at the Hague. As has been seen the reason for calling the London Conference was to determine precisely what were the rules of international law governing maritime warfare. Article 7 of the prize court convention declares that the court is to apply this law when any rule exists. No ten powers could arrogate to themselves the right to legislate as to what those rules should be, and then expect the international prize court to apply them; because the only way in which the court could apply them would be by reason of the competence which article 7 gives it. To embody these rules into article 7 would amount to a modification of that article by ten only of the forty-four powers which were represented at the Hague and which participated in the discussions preceding the adoption of the prize court convention. Very naturally then the conference disclaimed any intention of legislating or making any such modifications. But as indicated above the Naval Conference did not, like the Hague Conference, agree upon rules which have long been followed by the nations. How reconcile this apparent contradiction? Simply by taking one more step—by declaring that there must be some foundation principle underlying rules and practices seemingly opposed, and enunciating this fundamental principle. The best concrete instance which can be given is that of blockade. The Anglo-American doctrine has always maintained the right to seize a ship bound for a blockaded port, provided she might reasonably be considered to know of the existence of the bockade. The Continental doctrine required a special notification of the existence of the blockade to be given to each ship in the vicinity of the blockade. When the British delegation made a thorough examination of all the cases of seizure for blockade running, no instance of a seizure made at any considerable distance from the blockaded port was found. The rule contained in the declaration of London (article 17), to the effect that "neutral vessels may not be captured for breach of blockade except within the area of operations of the warships detailed to render the blockade effective," does then in reality express the really universal rule of law. Other instances of a like nature might be named but

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it would be going too far to say that the whole declaration contains nothing but the expression of the underlying fundamental principles common to all systems. Certain of the rules adopted are clearly compromises which have resulted in rules heretofore unknown. They have generally been agreed upon because of their practical value. It may, therefore, be said that the conference of London has ascertained and set forth certain principles of the law of nations and that the powers represented have agreed to certain other compromise measures which take sufficiently into account the interest of the powers represented to make them acceptable to all. In as far as the rules of the first class do really represent the fundamental law they must logically be accepted by every nation and applied by all international judges as the judges of the international prize court are by article 7 specifically directed to do. As regards the drawing up of those rules the function of the conference may be considered as nothing more than that of a body of experts making a report to the world.

The powers represented at London could not, strictly speaking, exact the adoption by other powers of those other rules which are based upon compromises. There can, however, be little doubt that they will be so accepted because they represent compromises and adjustment which have balanced the many and diverse interests of the represented powers, and hence it is probable that such rules will prove acceptable in the main to all other powers. Certain powers will perhaps make reservations regarding particular points, or loudly declare that they are not bound by some particular provision, but should a war intervene even the powers which may not have accepted the declaration would want its provisions to govern their relations with other powers. The influence of the principal naval powers would exert a powerful action in that direction. Furthermore the judges of the represented powers would be in a majority in the international prize court if constituted as outlined in the table annexed to the convention. It is not to be expected that all the governments of the powers represented at London will be equally in favor of the maintenance of every rule, consequently, the judges from countries not represented at the Naval Conference might very well cast the deciding votes which would tend to interpret the rules, sometimes in favor of certain of the powers represented, sometimes in favor

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of others and break down the original instrument. To prevent this we must place reliance on those who will be chosen as judges. More and more the jurists and statesmen called upon to decide international questions look upon themselves as something more than the henchmen of their governments. Above all, we must trust that the merits of the declaration itself, and the care with which it has been drawn will cause it to survive.

The connection between the declaration of London and the international prize court is hard to understand. The Naval Conference was called because of the indefiniteness of article 7, and yet the manner in which the discussions were conducted at London and the form in which the results were presented in the declaration seemed to avoid as much as possible associating the Naval Conference with the convention for the establishment of an international prize court. And yet the prospective establishment of the court made it possible to agree upon certain articles which might otherwise have given rise to difficulties—as for example, that relating to the destruction of neutral prizes; for in the case of an international tribunal where almost all the judges will be from neutral states, "danger to the safety of the warship or the operations in which she is engaged at the time" is not likely to be so liberally interpreted as to do away with the exceptional nature of the resort to this extreme measure. If for any reason the international prize court should not be established the declaration may, nevertheless, be ratified because it is a separate instrument.

The indirect results of this code of naval warfare are perhaps not less important than the resulting modifications in the rules to be applied to maritime warfare. Fixed rules of law have been extended to a region which had long been left to force alone, restrained by the national conscience and speculations as to the ultimate consequences of inconsiderate action. Analogy will aid those who advocate extending fixed rules to all international relations to secure the adoption of still other regulations through the instrumentality of future conferences at the Hague. It is curious to think that although the society of states is rudimentary as yet, a legislative organ has already been established. It took centuries of political education before the human mind could conceive of legislation, and yet the nations possess this great potential instrument of progress.

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PARLIAMENTARY GOVERNMENT IN CHILE

PAUL S. REINSCH

In the public life of modern states, political and economic motives of action are so closely interwoven that the student of politics rarely encounters a situation or institution in which he can trace and study purely political principles. Indeed, the struggle for political power and for recognized authority, the effort to give the stamp of public sanction to this or that policy, is always the focus of public life; but the action of the participants in the political drama is determined largely by non-political motives. We have to go back to the Athenean republic or to the Whig rule in eighteenth century England to see the political factor in its clearest and most detached manifestations. It is there that we see a society highly capable and cultivated, concentrating all its attention upon that dramatic struggle for power, that attempt to gain leadership over other men by ascendancy in counsel, which form the true essence of politics. Among modern nations, with their democratic organization, with vast material interests clamoring for attention, purely political considerations are apt to be overshadowed by those of economic and social import, although it always remains interesting to compare and measure nations with regard to their ability to express and deal with the principles of their life in the forms and activities of political counsel.

The public life of Chile offers a most fascinating field to the student of political science, because here he will encounter conditions of society and of political action not unlike those of the most interesting periods of political history. Chile would seem to be *par excellence* the political country of South America, and it is not too much to say that perhaps no other country in the world exhibits the action and interaction of political motives and principles in so pure and interesting a manner than does the Chilian Republic of our own day. With the England of the eighteenth century Chile has much in common. Here, too, an aristocracy of birth and wealth has unquestioned con-

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trol of social and political life. It is an aristocracy mainly of land-holders. The ruling families possess their large estates and attractive country-seats in the central region of Chile; they have their town houses in Santiago where, during the season, they enjoy the pleasurable excitements of social and political life. The mass of the population is composed of ignorant laborers, peasant tenants on the large estates, cow-boys and miners. The middle class is of relatively small importance in Chile as a manufacturing industry and population has not as yet been developed. The learned professions, however, have always exercised a considerable influence and have attracted mem bers of the most aristocratic families. It is not surprising that the manner of life of the wealthy classes in Chile produces a peculiarly attractive type of men and women. Out of door activities and direct interest in the primordial enterprise of mankind, agriculture, pursued according to modern methods and on a large scale, give the Chilians a zest for life, a healthy outlook, combined with the unmistakable dignity of men born to direct and to command. If they have any weakness, it does not consist in a lack of the ambition to excel in active pursuits nor in a disinclination to make vigorous efforts to succeed, but perhaps in a certain impatience with painstaking and laborious methods and in a want of experience with more complicated and more efficient forms of economic organization. The sons and daughters of these families are given the training which befits their station. They are early taught to be interested in the active enterprises of their house and thus carry the impress of definiteness of purpose and of breadth of outlook, not always encountered in the scions of the wealthy.

This society constitutes at the present time the only aristocracy in the world which still has full and acknowledged control of the economic, political and social forces of the state in which they live. These men are the owners of the great *haciendas;* important industrial enterprises in mining and irrigation bear their names. These same names are also borne by the excellent Chilian wines which are set before the guests at hotel tables and banquets and which recall those of Italy and of France in the variety and excellence of their bouquet. When you enter the halls of congress and look down upon the senators or the deputies, the names of Concha, Figueroa, Subercaseaux, Tocornal,

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Errázuriz, Vergara, Zañartu, Irarrázaval, Edwards, Balmaceda, Walker, etc., will again be repeated to you. They, too, are the stars in the firmament of Chilian social life. These families have their representatives in literature, in the plastic and pictorial arts, in the learned professions. They form a society which recalls in all its aspects the English society of the eighteenth century; a group of families small enough so that all the members are personally acquainted and may give each other that constant training which is the result only of social intercourse on a high plane. The intimacy of this society is enhanced, in the eyes of the stranger, by the fact that its members generally address each other by the first name. It will be Don Alexandro, Don Ramon, Don Joaquin, etc. Nor is this a fictitious intimacy; on the contrary, it is founded upon lifelong acquaintance. The most interesting and important characteristic of Chilian society is its political self-consciousness. It is governing the country, under endless irritation and conflicts to be sure, but it is supreme. Of its main political purposes in international and national affairs, it is quite certain. Though split up into numerous parties, which carry on a lively political warfare, its solidarity as a society nevertheless comes out again and again at times of political crises.

Were we, on the basis of political experience, *a priori* to construct institutions for a society and state such as those of Chile, we should certainly be led to apply the precedents of eighteenth century England and to say that government by discussion would play an important rôle, would in fact be most natural and appropriate to such a situation; and so the student of politics will not be surprised, although from the point of view of the exactness of his science, he will be gratified, by finding that Chile is as a matter of fact a parliamentary country *par excellence*. It is the only country in the new world which has the cabinet system of government; parliamentary government exists here in its most extreme form, as the executive is not given the power of dissolving the popular chamber. The Chilian parliament is the council of a governing class where men who, with all their differences of opinion, respect each other, meet and discuss their common interests with dignity and ability. Here it is possible for the investigator to observe a community engaged in almost purely political controversy, a community in which political discussion always holds the

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center of the stage. Even the life of the two principal clubs of Santiago is chiefly political. To their attractive rooms and gardens the members of congress adjourn after the daily sessions, and it is there that policies are intimately discussed and important political arrangements are made.

The two chambers of the Chilian congress are comparatively small. The senate has thirty-one members, not counting the ministers; the house ninety-two. The ministers of state are as a rule selected from among the members of either house; but even if not entitled to membership, they may at any time attend the sessions and speak in either branch. The senate is a small council in which discussion is carried on more after the manner of a conference. In the chamber of deputies too there is little set speechmaking. As in the congress of Argentina, members address the house from their seats without rising. This has the effect of giving a certain informality to the proceedings. The members seem far more at ease than they would be were they harangued from a tribune. The debates are remarkably free from pompous declamation. They are natural and direct discussions of political affairs pitched in a conversational but dignified tone. At times of course, conversation becomes general, there are cross-questions and skirmishes, which produce a certain confusion and some loss of time. But decorum is always maintained and scenes of violence do not occur If a great part of the debates is taken up with partisan fencing for position, that is a characteristic which the Chilian parliament shares with others. An acquaintance with the Chilian parliament, even if only temporary, is a most valuable and interesting experience to a student of comparative politics.

Chilian party arrangements are excessively intricate and in order to enter into a certain understanding of them, it is necessary to take a glance at the development of Chilian political life during the last sixty years. The very first impression which the study of Chilian political history conveys is that of the stability of Chilian society. The same names which we encounter in prominent places in contemporary social and political affairs we find affixed to the constitutions of Chile. They are borne by the incumbents of the presidency and other important offices, by generals and by intellectual leaders for the past century. Some names have disappeared, others have taken

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their places, but the current has remained the same. It is interesting to encounter English names like Edwards, MacIver, Walker, Cox, Meeks, but so great is the assimilating power of Chilian society and nationality that most of the bearers of these names, if they should perchance speak the English language, will speak it as a tongue acquired abroad; their language is Spanish, their nationality Chilian. Among all South American nations, the Chilian has the greatest assimilating power.

The turning point in modern Chilian history is the Balmaceda Revolution of 1891. Before this the succession of presidents had been maintained since Independence without any interruption or curtailment of their terms through violence. The constitution of 1833 had based the government upon a firm conservative foundation. The power of the executive was strongly intrenched; the instruments of authority were in its hands, and political rights were not broadly conceded. It was an era of narrow oligarchic government, narrow in the extent of the participating elements of society, though generally statesmanlike it its management of public affairs. The two great names of Portales and Montt stand for the establishment of political authority in Chile upon a basis difficult to be shaken. Yet liberal currents of political thought were gradually making themselves felt and with the administrations of Perez and Errázuriz (1876–1881), a beginning was made in efforts to expand political life by granting political rights to wider circles and also to modify some of the most conservative practices and institutions of government. Presidential influence was scaled down by establishing the rule that a president should not be reëligible during a full term of five years after his first incumbency. The suffrage was extended, and by the introduction of the cumulative vote, minorities were given representation. The election of the senate was based upon popular vote and thus assimilated to that of the chamber of deputies. A struggle was also begun against the extreme and exclusive rights of the state church. Nonconformist services were permitted, though under restrictions, cemeteries were placed under lay administration, civil marriage was instituted, and the ecclesiastical courts, before which clerics had hitherto been tried, were abolished. With this growth of liberalism, public opinion was strengthened and assumed a broader sweep. It was no

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longer the wealth and intelligence of the Santiago neighborhood, but the nation in a broader sense that entered into political life. These new forces of political authority found their readiest expression, of course, through parliament, and thereby strengthened parliamentary institutions. From the first, under the constitution of 1833, the parliamentary system had been instituted, inasmuch as ministers were permitted to be members of parliament, and to speak therein even if not members. It was inevitable that there should occur a struggle between the old institution of public authority, the presidency, and the newer forces of parliamentary life. This struggle came about during the term of President Balmaceda. It arose suddenly and was brought to a rapid and complete determination.

José Manuel Balmaceda had developed into a political leader of great ability and strength. Before coming to the presidency, he was recognized as the unquestioned leader of the liberal groups. His predecessor in the presidency, Santa María, had made extensive use of his influence and patronage in order to assure the election of Balmaceda. A large part of the liberal leaders were by this time becoming intensely dissatisfied with presidential interference in elections. To be sure, from the beginning of the republic it had been customary for the government to exercise a very strong influence in the selection of deputies and senators. The president governed with a congress which he had himself largely elected. This was especially true during the decennial presidential periods that preceded the legislation under President Perez, already referred to. While Chilian political society had endured interference in congressional legislation, it had usually insisted upon having a word to say in the selection of the president himself. The successful attempt of Santa María to control this election had, therefore, caused ill-feeling, although the particular candidate in this case happened to be very popular. The administration of President Balmaceda was characterized by great activity in developing the resources and public services of the country. But scarcely one-half of his term had passed when it became apparent that there was a serious want of understanding between him and numerous members of the liberal groups. When early in 1889 Balmaceda openly favored the candidacy of one of his followers for the presidency, the ill-will of congress was no longer concealed and a breach between the

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president and parliament was imminent. In October, the liberal groups forced the appointment of a parliamentary ministry through an absolute refusal to coöperate with the president unless the cabinet were representative of parliament. In January, 1890, the president dismissed the parliamentary ministry and displaced it by one composed of his own followers. He maintained that it was his constitutional right to select his ministers according to his own views of policy and expediency. His course of action was severely censured by parliament and in June the discussion of the budget was adjourned in both houses on the ground that no appropriations would be made until the president had appointed a ministry in consonance with parliamentary opinion. Balmaceda yielded for a time, and in August appointed the Prats ministry, which he, however, dismissed again in October. While he seemed to believe thoroughly in his constitutional right to carry on the government with a ministry selected by himself, his course of action during this time was certainly vacillating and he at times gave assurances which were not lived up to in his subsequent action. His relation to the parliament was much like that of Charles I. The president now appointed a cabinet of his personal followers which had no influence with parliament. Congress obstinately refusing to pass the budget, the president declared the sessions of both houses closed. The provision of the constitution that only in virtue of a law there can be fixed annually the expenses of the administration and of the maintenance of the forces on land and sea, the president interpreted as imposing a duty upon parliament. The duty not having been performed, he declared that he was forced to govern the country, without parliamentary sanction of the appropriations contained in the budget, by direct exercise of his presidential power.

All the parties in parliament were united in their resistance to the position of the president. Special directories were appointed by the Liberal Alliance and by the Conservative party. All rivalries and enmities between these parties were buried and they coöperated loyally in the cause of upholding the constitutional powers of parliament. Financial support was liberally accorded by the wealthy members of the parties, and the newspapers were almost unanimous in supporting the cause of parliament until they were silenced by

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police action. On January 1, 1891, the associated senators and deputies signed a solemn act of deposition, in which they recited the illegal and unconstitutional acts of the president. by reason of which he was held to have forfeited his constitutional authority. In the hostilities which followed, the congressional party was uniformly successful and Balmaceda paid the price of his single-handed poliey with the loss of all his power. After writing a testament in which he urged his friends and followers to uphold in the future the policy of presidential authority against congressional encroachments, he committed suicide. This act invested his character in the eyes of the people with a halo of martyrdom and caused the great bitterness of the struggle to give way to more tender feelings. It was therefore possible, surprising as it may seem after such a struggle, for the followers of Balmaceda to regain a position of great influence in Chilian politics within two or three years.

The success of the parliamentary party in this great constitutional struggle was held to have settled two points absolutely and forever. Hereafter there should be no executive interference with the liberty of election. That political function should be entirely dissociated from the activities of the central administration and the electorate should be allowed freely to express its choice. The other principle was that no president should attempt to govern without a cabinet which expressed the will of the majority in the chamber of deputies. Thus the interpretation which the parliamentary party had placed upon the constitution had been affirmed through trial by battle. No formal change was made in the constitution, but it was understood by everybody that hereafter a president should not be able to govern without submitting to the public will as expressed by parliament. The cabinet system, being introduced in this manner, received a most radical form in that the executive was not accorded the power of appealing to the country through a dissolution of parliament. In addition to these principles, legislation was established by which the communes were given self-government. They have the power of taxation and of providing for their local needs. As a matter of fact, this law did not, however, put an end to the reliance which the communes place in the central treasury, the horn of plenty from which flow all good things in Chilian politics. The law of municipalities also provided that

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the national elections should be supervised by the communal authorities.

The principles contended for in the Balmaceda revolution were indeed of great enough importance to justify a struggle of such magnitude. It was an indication of the political ability and clear-sightedness of Chilian political society that they should have taken ground so decidedly and so promptly when these issues were presented. The coöperation of all parties during this crisis is a proof of that underlying solidarity of the governing class in Chile which, though hidden from sight by the everyday rivalries and party struggles, will manifest itself in times when great issues are to the fore.

But though a great constitutional question had been decided, nevertheless the political millenium did not begin for Chile with the settlement of the Balmaceda dispute. Elections were indeed freed from administrative intrigue at least for a time, but the control over the electorate exercised in that manner was displaced in many cases by the use of money. Upon the prevalence of corruption in present electoral politics, all Chilian writers seem to be agreed. One of them puts the average cost of a senatorship at 100,000 pesos and of a seat in the house of deputies at 10,000. In its convention of 1907, the Liberal party discussed at length, and bewailed, the corrupt practices of Chilian politics and pronounced itself in favor of a law limiting the election expenses of a senator to 10,000 and of a deputy to 5000 pesos. Chilian writers claim that on account of these materialistic influences the quality of membership in parliament has notably deteriorated since the golden days of authority when members were carefully selected by a providential executive. But even in the face of these discouraging facts, it must be set down as a decided gain to have established the principle that elections should be real, that votes should be actually counted, and that the executive should not use his patronage and influence for the purpose of predetermining results. Attempts in the latter direction have indeed not been entirely absent of late; in Chile, as elsewhere reforms are not self-sustaining, but need the constant support and watchfulness of public-spirited men. However, official interference, if it does exist, does not proceed from the head of the state, but from other high officials, in isolated cases. If the Chilian people will adhere to the idea of a free election and insist upon

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respecting this institution as a true source of political authority, they will surely be able to work out a solution of the problem of corruption by which other nations, too, are confronted.

The municipal law also has not been entirely satisfactory. It has not been possible to create real communal life, and the localities still rely upon assistance from the central government. As a Chilian deputy has put it, "We have an immensely, exceptionally rich treasury, and a people frightfully poor. In this country, everything is disorganized, save the exploitation of the treasury for private ends."[1] While this statement puts the case rather strongly, it is, nevertheless, necessary in any discussion of Chilian politics to remember that the bulk of the national revenue ($20,000,000) comes from the export tax upon nitrate which falls upon a foreign industry. Local direct taxes would not be popular, and as a result the communes continue to rely upon assistance from without. This is the source of one of the greatest difficulties in Chilian politics, as it involves a constant pressure brought to bear by individual deputies upon the administration in order to secure grants for local purposes.

Of all of the reforms of 1891, it is the abiding effect of the establishment of the cabinet form of government that we are most closely concerned with in this paper. In order to get a complete view of the situation it will first be necessary to take a glance at the different Chilian parties. There are six parties of recognized standing in the Chilian parliament; to give them in their order of appearance in national life, they are the conservative, the liberal, the nationalist, the radical, the democratic, and the liberal democratic.

We might in a preliminary way briefly characterize these parties as follows: The conservative is clerical in its policies: the liberal and the radical are secular and progressive, the latter being almost anticlerical. The democratic party, small in its congressional representation, stands for the interests of the laboring classes. Finally the national and the liberal democratic parties are personal in their traditions, the former representing what is called Monttvarism, or the authoritarian traditions of the régime of Montt and Varas (1851–1861), while the latter has fallen heir to the personal policies of President Balmaceda and is, therefore, known also at the Balmacedist party. The conservative and the liberal parties go back

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to the beginning of republican government. During the first era, however, the conservative party was in absolute control. In the political slang of Chile, the conservatives were known as the *Pelucones* or big-wigs, while the liberals were known as *Pipiolos*, a nickname of uncertain derivation. In the battle of Lircai (1830), the liberal elements were defeated, and the conservatives, who comprised the majority of the old landed families of Chile, were thus enabled to establish the government according to their ideas, as they did in the constitution of 1833. This notable document, in the creation of which Portales was most active and influential, formed a consistent and solid basis for an authoritative government with a strong executive and ample instruments of power. Under the presidency of Manuel Montt (1851–1861), the conservative and authoritarian régime came to its head and traditions were established during this period through which the maintenance of law and order in Chile will be assured for a long time to come. But the older conservatives were too narrow in their views to continue in an adequate leadership of a new, vigorous, and progressive community. Influence passed to the liberal groups, during the presidency of Perez, and soon the conservative party was reduced definitively to the position of a minority. Through their action in the parliamentary struggle in 1891, the conservatives regained influence and power; in fact, they were quite the dominating element in the state during the first two administrations after the revolution, those of Jorje Montt and Federico Errázuriz E. (1891–1901). Public administation under Errázuriz was, however, not of such a nature to commend itself to the Chilian people; the conservatives were, therefore, again reduced to a strictly minority position. On account of the confusion existing in Chilian party life, however, they have been able always to exercise some influence upon the government. The conservative party is *par excellence* clerical. In the words of Senator Vincente Reyes, an opponent, "The conservative party tries solely to serve the ecclesiastical interest. It desires to establish the hegemony of the church over all other institutions." The party therefore draws a great part of its strength from the following which clerical support secures to it among the masses of the population. The conservative party, as a minority, has supported the following policies, among others: the liberty of instruction, propor-

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tional representation, communal independence, and the law of parliamentary incompatibilities. It is not difficult to understand the reasons for which a minority would favor these policies. The question of educational policy is extremely complicated in Chile. Under the liberal régime a beginning was made in the creation of a system of public instruction under the control of laymen. This has always been resisted by the conservative party, which does not desire to have the state build up a system of education which is not dependent upon the church. According to the legislation of Chile, no higher degrees are recognized in state appointments except those which are granted by the national university and national secondary schools. Liberty of instruction, in the sense of the conservative party, accordingly stands for the demand that degrees granted by the ecclesiastical institutions of learning should be placed upon the same footing and given the same legal value as those obtained in the state institutions. The conservations are also not favorably disposed toward an extension of the system of public primary schools. The conservative party at the present time numbers among its members about one-third of the senators and one-fourth of the deputies.

As already stated, the liberal party, which occupied but a modest place in the public affairs of the earlier era, came to its own under the administration of the first President Errázuriz (1871–1876). This statesman in fact based his policies upon a liberal-radical alliance, which entirely displaced conservative influence. Liberal reforms continued to be introduced during the following three administrations and liberalism seemed to be at the height of its influence, with no clouds on the horizon, when the administration of Balmaceda began. The policies of that president, however, shook the solidity of the party to such an extent that it has not as yet recovered its cohesion. The liberal party of Chile has suffered the fate which has overcome the group bearing that name in many other countries. Its principles, indeed, are such as appeal to high-minded and statesmanlike men, yet the party fails in some of the lesser arts of politics, and moreover, its principles are often not brought into a vital relation with the interests and energies of national life. It will always inspire respect but will not always command an irresistible following. At the present time the liberal party itself is the third in rank in the Chilian

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parliament, considering membership, and it is in absolute need of the support of the other liberal groups, the radical party and the liberal democratic party, in order to realize any of its political aims.

The national party has a rather unique history. It was originally composed of the personal followers of Don Manuel Montt (president, 1851–1861). A group of politicians, bound to this statesman through interest and through admiration of his efficient wielding of the instruments of authority, united itself in the spirit of a personal following and adopted the name of nationalist party. It is, however, more commonly known as the Monttvarista party, a name made up of that of President Montt and of his famous prime minister, Varas. The strong-handed maintenance of its authority by this administration did not result in a harvest of great popularity for the nationalist party. It, however, maintained itself as an opportunist and personal party through the many vicissitudes of the latter half of the nineteenth century and finally came to its own again when one of its members, Don Pedro Montt, son of the president, received the support of other groups and was elected to the presidency in 1906. This final success has given new life and impetus to the nationalist party, although it has apparently not as yet become endowed with very definite principles of action, outside of loyalty to the leadership and belief in the political capacity of the Montts.

The radical party originated at a time when the liberals were making coalition arrangements with the conservative party before they felt sure of the ground under their feet. As its name rightly indicates, it stands for the same tendencies in political life that were represented by the British and French radicals in the nineteenth century. A strong belief in the democratic form of government, in public education, and in freedom from ecclesiastical tutelage compose the chief elements in its political belief. In its party organization, it has constituted itself upon a popular basis. The unit of organization is the assembly or meeting of all the party members in a certain department. The candidates of the party are nominated by this assembly, which also elects the central junta or directorate. This organization has since been adopted by some of the other Chilian parties. Under the first Errázuriz, the radicals, as already stated, formed an alliance with the liberal party, which formed the basis of government and

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resulted in the election of the next president, Don Aníbal Pinto (1876–1881). Though never a majority party, it has, nevertheless, taken part in a number of important administrations, such as that of Errázuriz the first, of Pinto, Jorje Montt and Riesco. The programme adopted in its general convention of 1906 contains among many other the following principles and suggestions from which the present tendencies of the party may be seen: The party favors the election of the president of the republic by direct vote of the people (he being at present elected through a college); the restriction of parliamentary incompatibilities; the payment of the members of parliament (their service now being gratuitous); the modification of the constitution of the senate so as to convert it into a chamber of revision and control, elected in a different manner from the second, the political, chamber; the organization of the electoral power as an independent institution, detached from the municipalities; the separation of church and state; gratuitous primary education, obligatory and administered by laymen; diminution of the number of festival days, etc.

The democratic party has organized itself for the purpose of representing the interests of the laboring classes. As, however, there is no large factory population in the Chilian cities, the party does not as yet possess a strong constituency. In the present parliament, it disposes of only three deputies. The laboring population in the rural districts is too apathetic and ignorant to take very much interest in government. It allows itself readily to be led by its employers and does not form an element of independent importance in political life. The rural population has not been reached as yet by democratic or socialistic agitation.

The most unique party in Chilian public life is that which is officially called the liberal democratic but which popularly goes by the name of Balmacedist. The followers of Balmaceda, during his administration, comprise many men who had great experience in practical politics as public officials and as manipulators of elections. During the storm of the revolution, these elements which had composed the administration were driven from power and mastery; but when peace had again settled upon the land, it was not long before they attempted to regain their ascendancy. In the testament of Balmaceda they were provided with a party programme. In his character they saw

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a personality of leadership, loyalty to whom would hold them together by a more than theoretical bond. Beginning with the election of 1894, the liberal democratic party has played a very important part in Chilian parliamentary life. Its position is a somewhat anomalous one. The political testament of Balmaceda enjoins upon his followers the duty of vindicating the powers of the president of the republic and of protecting that office against encroachments upon the part of parliament. Being, however, a minority party, his followers could not put into application these policies from the ground of vantage of a complete political control. They therefore aspired to acquire influence in parliament, and after gaining a foothold there, attempted to influence the administration much as any other party would do. On account of this course of action they have been charged with gross inconsistency. In attempting to fortify their parliamentary position and bring influence to bear upon the executive they have, so their opponents urge, gone directly counter to the mandates of the political testament which they pretend to revere. But they defend themselves by asserting that the only manner in which they can achieve the power necessary to carry out their policies is by gradually working themselves into the control of parliament. That control once achieved, they can then rearrange constitutional relations so as to carry out the principles of their departed leader. Meanwhile the party has been pursuing a policy of strict opportunism, making the most of its representation, ready to conclude compacts with any other group or faction whenever its own power and influence will be advanced thereby. Looking at the events of the last ten or fifteen years, it becomes plain that if the liberal democratic party had deliberately set about the work of undermining the credit and authority of parliament, it could not have succeeded better than it actually has, through forcing upon the various groups and parties of parliament the necessity of making shifting and temporary alliances and coalitions. If it is its purpose to diminish the power of parliament, the party has already been measurably successful. It has, however, not gained this success by consistently following any definite policy of government, but rather by making opportune arrangements with this or that party or faction. At the present time, it controls one-third of the senators and nearly one-fourth of the deputies. Members of the party have repeatedly been

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ministers of state and have exercised great influence in successive cabinets.

With this brief characterization of Chilian parties in mind, we shall now proceed to a brief review of the parliamentary history since 1891. Under President Jorje Montt (1891–1896), the government was at first carried on by a coalition between the parties that had been successful in the revolution. It may here be noted in passing that, in Chilian parlance, *coalition* refers to a union between opposite parties such as conservatives and liberals, while *alliance* refers to a union of similar groups such as the liberal alliance. In 1892 an attempt was made to govern entirely with liberal elements, but it was not possible to carry out this plan then or at a later time. The liberal democrats or balmacedists, who entered the parliament in large numbers after the elections of 1894, were still too hostile to the other liberals, who had opposed their chief, to make common cause with them. In 1896 they united with the radical party and with some liberals to support the candidacy of Vincente Reyes. Who was, however, defeated by F. Errázuriz Echaurren, son of the president of like name, who was supported by the old liberal and conservative coalition. During his régime, the conservative party gained the ascendancy, although it was not by itself able to carry on the government entirely without assistance from liberal and nationalist votes. The attempt to pass a number of reactionary measures with respect to primary education and ecclesiastical matters alarmed the liberals, and they made a strong effort to reconstitute the union of liberal parties. The result of this effort was the election of Don Jerman Riesco as the representative of liberal principles against the opposition of Don Pedro Montt, who was at this time supported by the conservatives and nationalists. The convention of 1901 was composed of the liberal members of parliament, past and present. As they are themselves elected by the people, their selection of a presidential candidate was looked upon as a step in the direction of further fortifying the freedom of elections. Conventions for the nomination of presidents had been in use since 1875 but in the early conventions there had been a strong representation of the appointed official element. The administration of Señor Riesco began with the attempt to govern through the liberal alliance. He, however, soon fell out with the

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liberal democratic party and the alliance was accordingly broken up. Great confusion and disorder followed. There were during this presidential period sixteen different cabinets. In some of the individual positions changes were even more frequent; thus there were eighteen different ministers of finance, which would give an average tenure of about three months.

During the last decade, parliamentary politics has been a succession of coalitions and alliances in which every group and party has allied itself at various times with every other. The history of the first part of the present administration of Don Pedro Montt will give an insight into this confusion. The president was elected by a combination of nationalists, conservatives, radicals, and liberals, while his opponent, Señor Lazcano, was supported by a conservative-liberal-democratic faction. President Montt originally tried to govern through what is called an administrative cabinet, by which is meant a ministry selected from the point of view of administrative convenience and efficiency without strict regard to the constellation of parties in the chambers. When this cabinet failed, the experiment was tried of appointing one minister from each of the six parties (*Gabinete universal-politico*). This cabinet lasted for about eight months. During its incumbency, the conservatives again became completely united. Their prepondering influence led to the appointment in 1907 of a ministry in which half the members were conservatives. This situation caused the liberal parties to seek to bring about an alliance among themselves. When the Vergara cabinet of 1907 failed in September, a combination of nationalist with liberal and radical parties was formed but this alliance did not have control of the senate, where the conservatives are exceptionally strong. President Montt therefore again tried an administration cabinet, that of Sotomayor, in which there were four nationalists and two liberals. This cabinet maintained itself until August, 1908, and succeeded in having the budget passed through the house. At this date, however, the liberal parties had finally brought about an alliance which was governed by a joint committee composed of two members of each party. Controversies were to be solved by a tribunal of arbiters, one from each party. The result of this arrangement was the cabinet of Señor Figueroa, which contained one liberal, one radical, two liberal democrats, and two nationalists.

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It will be seen that the influence of the president was strong enough to keep one or more nationalists in the cabinet at all times. Through desertion on the part of some of its supporters, the Figueroa cabinet had to resign on December 19, 1908. Its fall was occasioned largely by the action of liberal democratic members. For several weeks, the president vainly attempted to form a new cabinet and it was only on January 10 that the government could be reconstituted.

From this brief account, it will be apparent that while the revolution of 1891 has indeed firmly established the principle that the president cannot govern with a cabinet that lacks parliamentary support, yet that very revolution introduced elements of confusion into the party arrangements of Chile which make a successful working of the system in its present form well nigh impossible. It is true the parliamentary and ministerial crises are not accompanied with convulsions in the social and commercial life of the nation. The administration proceeds along its regular course, and while the public is interested in what is going on, there is no fear or apprehension of disastrous consequences. And yet this constant change in the personnel of the ministry, this constant uncertainty as to the future, does have a very deleterious effect upon public administration, as indeed could not be otherwise. It is a strange and interesting fact that the chief element of this situation is the insertion into the libera groups of a party which bears the name of a man whose life went out in the efforts to confine the power of parliament within narrow limits.

In Chile at the present time, nearly everyone is a critic of the parliamentary system. The instability and confusion which the multiplicity of parties has introduced into Chilian political life is laid at the door of the system of cabinet government. Everyone interested in public affairs is attempting to analyze the situation, to get at the root of the evil, and to suggest reforms.

It is generally stated that the quality of the personnel in both chambers has declined since the principle of free elections was established. The critics of the system look back almost with regret to the days when a beneficent and powerful government still saw to it that "good and patriotic" men were elected to parliament. At that time, parliament contained, in addition to a large number of substan-

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tial landholders and country gentlemen, representatives of political expertship in the persons of high administrative officials and professors of the faculties of law and political science. The law of parliamentary incompatibilities directed against the excessive power of the executive has excluded the expert element by providing that functionaries of the public service shall not be members of parliament. It is also declared by the critics that many men of a lower type, men having only superficial gifts of pleasant address, forward political climbers, as well as those who have nothing to recommend them but the money which they spend lavishly in elections, have found seats in the Chilian parliament. On such a matter a foreign observer would hardly be able to institute just comparisons. It is true that the discussions in the older parliaments were more serious and perhaps more dignified, but it must be confessed that in all parliaments the quality of discussion has degenerated. Under the Chilian system, the deputies and senators receive no pay. On this point too, the Chilian parliament is a faithful reproduction of the prototype of parliamentarism in Great Britain. On this account, parliament is composed of men of independent means. There may be isolated cases of politicians who make a living out of their trade, but in general the members of parliament are men of independent income who devote themselves to political affairs out of love for political life or because of their desire to represent the interests of their class. The radical party has adopted into its programme a demand for payment to members, which is also a tenet of the democratic party; they argue that it should be made possible for any intelligent citizen to represent a constituency in parliament. This question is, however, not as yet being seriously considered by the majority of Chilian public men. The aristocratic traditions of Chilian politics are opposed to any such arrangement.

The most serious danger to Chilian public life arises from the almost universal use of money to influence the result of elections. This is an evil which all states having a democratic electorate have to contend with. It is rendered specially virulent and dangerous in Chile on account of the fact that the electorate is not homogeneous but contains great masses of people who are ignorant and lack all political education. Education itself is of course no guarantee of political morality or even of political efficiency in an electorate. Even the best educated

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populations may be moved by narrowly selfish and corrupt motives or may be indolent and apathetic in political matters. Yet an appeal on the basis of principles and ideas is scarcely possible with an electorate that is lacking in education, so that education must certainly be said to be a condition *sine qua non* for giving the representative system a chance of asserting a beneficent influence upon public life. The development of popular education is recognized to be one of the most serious tasks to be undertaken and carried through by the Chilian people. In order to combat corruption, it has also been proposed by the liberal party to limit election expenses. It would be futile, of course, to rely solely upon a law for the elimination of corrupting influences, which may take a less direct and more insinuating form than money bribery. Nevertheless, corrupt practices legislation has always proved useful in educating the public conscience and in avoiding the grosser breaches of public morality. The extreme form of penalty suggested by some public men in Chile—the loss of representation for any district in which corruption occurs—is too stringent to commend itself to the Chilian public; but some punitive legislation combatting open corruption is to be looked for.

Another evil is beginning to creep in through the use by the chambers, especially the senate, of their power to decide cases of contested elections. As this power rests entirely with either house concerning its respective members, it would be easy to turn it into an instrument for a wholesale perversion of the electoral system. In the senate, the conservative members supported by a few others have formed a group or *bloc* which has been able to control decisions in electoral contests. The nature of some decisions recently rendered in favor of the interests of the *bloc* has caused the motives of such action to be questioned, and it is quite generally charged that the power of determining elections has been used for party purposes. The liberal parties have accordingly adopted into their platforms resolutions calling for the creation of an independent tribunal of elections. Such a court would have the complete and ultimate power to determine cases of dispute. These parties also favor the entire severance of the electoral machinery from that of the municipal governments. This union, as stated above, was effected after the revolution of 1891 in order to render impossible the interference of the central administra-

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tion in national elections. But it has been found that the system in its present form encourages corruption and the perversion of the electoral function for the benefit of parties and individuals. It is, therefore, proposed to create an entirely independent machinery for the supervision of elections.

The defect in the present Chilian system which makes itself felt most disagreeably consists in the frequent changes of ministries. Excessive instability is thus introduced not only into parliamentary and party life but into the very administration of the republic. We have already seen that ministries change on the average every four months. The record figure of ministerial change in any country is certainly that of eighteen ministers of finance during one administrative period of five years. On account of the confusion in Chilian party life a ministerial crisis happens far more frequently than a real crisis of majorities in parliament. It has been stated that only one out of every three or four crises really is the result of a displacement of majorities in the house. The others depend on the temporary shiftings of groups and cliques, in which no principle whatever is involved. Such changes rest entirely upon personal reasons, upon a desire of small groups of representatives to acquire influence with the government, very often for the purpose of gaining a merely local or personal advantage. The effect of this instability upon the administration of public affairs may be imagined. Were it not for the strong underlying sense of authority and of abiding by the law, which characterizes Chilian public life, there would long since have been a disaster. Here again, it becomes clear to what an extent Chile is still governed by a caste, the members of which understand each other and in the main have confidence in the character of each other. They stand for a common social and political interest notwithstanding all their party differences. The sudden and frequent changes in the composition of the government therefore do not exercise a deeply disturbing effect upon Chilian social and political life. They are a part of a great game of politics played by men whose form of thought is cast primarily in political molds. But although no individual crisis or series of crises may shake the underlying stability of Chilian affairs, this succession of changes nevertheless has an extremely deleterious effect upon public business. The ministers of state lack continuity of experience.

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They are in many cases young men who have not as yet acquired representative character, who are put in governmental positions because men of wider experience refuse to submit to the chances of political change. The cabinets, indeed, do always contain men of real ability but they by no means offer a field of activity in which great public characters may be developed through continuity of experience and through a constant sense of responsibility for definite policies and political principles. The tenure of the ministers does not depend upon their excellent conduct of affairs, but upon the shifting constellations of parliamentary cliques and groups.

Subservience to narrow local interests permeates the entire Chilian system. This, of course, manifests itself especially in the manner in which parliament deals with appropriations. Many Chilian public men have described for us the manner in which support in gaining public favors is traded for by representatives. In return for a vote for one local appropriation, support is promised to secure special favors in return. The manner in which members of parliament interfere in the administration recalls and exceeds the evils of the French system. They attempt to get for their districts water-works, hospitals, road appropriations, railway service; they seek to determine the appointment of administrative officials in their locality; and in every way they attempt to render the action of the central government subservient to narrow and local purposes.

Under any form of representative government in which deputies are elected by districts, these evils will appear in a more or less virulent form. It is natural that a public representative should consult the wishes of his constituents and it is most difficult to establish and maintain that true representation of the *general interest* of the public upon which in theory parliamentary institutions are founded. Yet in Chile there are certain conditions which render these evils especially virulent. The parties being broken up into infinitesimal groups, there is no true responsibility for general public policies that involve general instead of local interests. Moreover, the growth of municipal government in Chile is so recent that a true communal spirit of independence, a true pride in local self-help, has not as yet been generated. As was stated above, in the words of a Chilian public man, "The public treasury is rich and the localities are poor:" the latter continue to

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rely even for their ordinary needs upon assistance from the national treasury, and it is the deputy in congress upon whom they call to get for them the favors which they desire. If he is not successful in getting public works and buildings for his district and in arranging the appointments in a satisfactory way, his own tenure of office may be but a short one. All sorts of private interests must thus be considered. As Senator Reyes said in the liberal convention, "The senator or deputy, after the approval of the national budget, usually with a deficit, takes home to his province—to the religious corporation which bears the name of St. Francis, or the asylum of St. John, or the school of St. Peter—the obolus which he has obtained from congress, in order to pay for service rendered or which he may claim again at an opportune moment." But when the liberal convention proposed to cut down the power of representatives over appropriations, several members objected most strenuously. Their arguments give an insight into the inner workings of Chilian politics. Thus, one of them said: "If I should take to the frontier (*Traiguen*) the news that we had here agreed that deputies should not make any increase in the budget, I am sure that this alone would be sufficient to disperse our party and to make it impossible to get together enough votes for sending a representative to the national congress." Under the old régime, the intendants and governors brought to the attention of the administration the necessities of their regions. The government thereupon distributed its support upon a general plan. At the present time, it is not these administrative officials but the deputies who are relied upon to bring to the notice of the government the local needs. If their representations are not heard, they will try to make a combination by which amendments are introduced augmenting the budget and giving to the localities what they desire. It is stated that the ministers pay no attention to the statements sent them by the intendants and governors. Such papers are duly filed away for future reference; but in the turbulence of political struggles, the reclamations of the deputies have to be listened to first and they alone, it is said, are effective. Some rather amusing arguments were made in the liberal convention against reducing this power of the deputies. One speaker asserted that the town in which he lived would not have had any drinkable water were it not for the parliamentary initiative in

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the matter of expenses; another that his province should not be able to get a hospital could they not rely upon the vigorous efforts of their deputies in congress.[1] These speakers concluded that the suppression of parliamentary initiative in the matter of appropriations "will be acceptable only when good government has been established." That the limitation of this activity is itself a necessary step towards the establishment of good government, these men would not admit. As a result of the continuousness of purely personal struggles in parliament and of the insistance of local demands, parliament is sterile as far as real legislative activity is concerned. It does not unite in laying down the lines of a broad public policy for the guidance of the executive, spending its energy and time upon matters of administration which ought to be left to the other departments of government. In a word the Chilian parliament strives to administer and meanwhile it is unlearning the art of government. Such is the view of many Chilian writers.[2]

These conditions, which have been seriously engaging the minds of Chilian public men, have led to the suggestion of a variety of remedies in the way of institutional changes. Both the liberal and the radical parties have proposed that the power of deputies to add to the budget as brought in by the government should be reduced or abolished. It is believed that the entire initiative of the budget should be with the government, which, upon the basis of a complete knowledge of the local and general situation in the country, should distribute public expenditure in such a way as to secure the adequate and continuous improvement of public works and services throughout the country. The piecemeal and discontinuous appropriations of the present time are not only disastrous from the points of view already considered, but they also lead to a great waste of public resources through the lack of continuity in public works, so that very often expenditure already made in a locality is devoid of lasting benefit

[1] According to this speaker, Santiago, being the seat of congress, has fared better than other localities; but when he speaks enthusiastically about the smooth pavements there provided by public expense, the listener, should he happen to have ridden over those pavements, may not have been carried away by the argument.

[2] Among others, Domingo Amunátegui Rivera, in his work on Administrative Law; Senator Vincente Reyes; Alcibiades Roldan; Maximilano Ibañez; and José A. Alfonso.

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because it is not followed up according to a general and adequate plan. The remedy suggested is either the entire suppression of the parliamentary power to propose increases in the expenditure under the budget (radical programme); or the provision that the budget itself must be passed without augmentation, should additional items of expenditure be desired, they should have to be introduced and passed as special laws. The latter provision, it is believed, would serve to discourage log rolling, because every proposal of this kind would have to stand upon its merits as a special legislative enactment and it would be far more difficult to exchange favors or to bring in additional grants in a surreptitious way. The adoption of this reform would, of course, not do away with the pressure which individual members may bring to bear upon the executive, but it would secure the working out of a general, definitive budget by the government upon the basis of the needs of the country in general, as from its position of vantage it may see them, and without the danger of having all its plans dislocated and the entire system of expenditure changed by parliamentary action. Both the government and parliament would be forced to take, in matters of expenditure, the public and general, rather than the private and local, view.

A second reform suggested is that of enlarging the districts from which members are elected so that the latter should no longer feel so direct a sense of obligation to the narrow interests of a locality. Under the Chilian system as at present in force, it is not necessary that a deputy should be a resident of his district. On this point, too, the practice of the British system is followed. Nevertheless a great subservience of deputies to local interests has not been avoided.[3] The

[3] J. A. Alfonso, *La Reforma Politica en Chile*. "The congressman who does not listen to the solicitations of his electors, often unjust or merely troublesome; who falls out, for any reason, with the chief or master of the locality; who also does not every day give careful attention to his correspondence with his constituents; frequently falls into disgrace and loses the following election, although he may be a true servant of patriotic and general interests. On the contrary, the deputy who dedicates himself, with a complete disregard of general interests, entirely to serving his electors, to satisfying their individual requests, although they may crack the national treasure chest, who answers all their letters—this deputy is good and great and may be sure of reëlection." The author also states that public men of real ability and importance usually avoid the small electoral districts and become candidates in the larger ones where petty local interests are not so imperative.

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suggestions for reform which have been made comprise the modification of the senate as well as of the the lower chamber. The programme of the liberal party purposes the reorganization of the senate in such a manner that one-third of the members shall be elected by the country at large while the other members are distributed among the provinces. With respect to the election of deputies, the suggestion has been made[4] that the representatives should be elected either by the entire nation at large on one ticket or in very large electoral districts.

A third remedy which is suggested consists in granting to the president of the republic the power of dissolving the chamber of deputies in cases of irremediable disagreement. It is part of the liberal democratic programme. In the liberal convention of 1907, two suggestions were made looking toward this reform. According to one, proposed by Sr. Alcibiades Roldan, the president is to be given the power of dissolving the lower house with the consent of the senate. According to the other, he is to be given that power independently but is to exercise it not more than once during his term of five years. The plan thus suggested, while it has not been adopted by the liberal party, is still much discussed in the political circles of Chile and is favored by many as offering a solution of the difficulties. It would, of course, considerably increase the power of the executive, and its adoption would thus involve to a certain extent giving up the fruits of the revolution of 1891. Yet, an appeal to the country would give both president and congressionals an opportunity to defend their course of action in a general election; and the necessity of doing so, it is be believed, would lead all parties to be definite in their policies so that the uncertainty and confusion of party politics would probably disappear and give way to more continuous and more consolidated action. Should some form of these different solutions be adopted, Chile would indeed again have strengthened the presidential office, but her institutions would then even more closely resemble those of Great Britain, under which the executive has the power of dissolution and under which the introduction of money bills is entirely within the hands of the cabinet. The presidential office should, indeed, be a far more positive and active political factor than is the kingship of Great Britain.

[4] By J. A. Alfonso, in his *La Reforma Politica en Chile*, 1909.

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The Chilian parties are at the present time so subdivided and so confused in their action that party government cannot be said to exist. This splitting up into factions is partly due to the controversies introduced at the time of the Balmaceda revolution, and more especially to the existence of the personal parties in the Chilian parliament. The fractioning of parties is, however, also encouraged by the use of cumulative voting in parliamentary elections. The object for which this method was introduced was to enable true minority parties to gain some representation in parliament. As it operates at present, however, it serves to break up into small groupings parties that ought to exhibit harmony and cohesion. A province, for instance, in which practically the entire population is liberal, would under the majority election system produce a compact delegation. The system of cumulative voting, however, favors the creation of smaller groups within the party, who will put up candidates in the hope of gaining representation for certain local groupings of interests. In this manner both in parliament and without, the conditions are extremely favorable for an indefinite subdivision of parties. The action of the government has therefore hardly ever been based upon a true majority in parliament. In other words, parliamentary and governmental action has not been determined by a homogeneous majority standing for a definite public policy. Since the revolution of 1891 ,the government has always rested upon coalitions or groupings. Every party has united at some time or other with every other party. Nor has this been due to the action of individual members; the coalitions are, indeed, usually made by the party authorities. Thus even the former president of the liberal party, Don Ramon Barros Luco, was in office together with members of the opposite party and this is true of practically every public man who has held ministerial office in Chile. The groupings which support successive governments are usually false majorities in that they contain elements which are not bound together by any common principle of policy but only by the political convenience of the moment. It is the practice in the Chilian parliament to designate questions upon which every member is free to vote as he pleases without regard to party affiliations, as "open questions" (*cuestiones abiertas*), and it is indeed extremely rare that a question is made a strict party issue. Coalitions between liberals and conservatives

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and alliances among the liberal parties rest usually upon questions of administrative arrangements. The withdrawal of one of the minor groups, bound to the majority by no permanent interest, is frequently the sole cause for the fall of a ministry; the majority of votes being destroyed, there is an apparent crisis. Usually no question of principle or policy is involved. The situation of groupings in parliament has simply shifted and a new combination must be arranged for the support of the government.

It is interesting to note that in the Chilian parliament, obstruction has never been continuously and systematically employed. In fact, only upon one occasion, in the discussion in 1901 of the arrangements with Peru with respect to Tacna and Arica, was any recourse had at all to obstructionist tactics. As the Chilian parliament allows very great freedom of discussion and as the previous question is not in use, indefinite obstruction would be possible. That it has not beeu resorted to is probably due to the fact already brought out that the Chilian parliament is a governing council composed of men who understand each other and respect each other's point of view, who have more *esprit de corps* than is usual in contemporary parliamentary bodies. But the absence of obstruction may also be accounted for by the fact that minorities find it easier to attain their objects by making arrangements with the government and with other groups than by engaging in the ungrateful task of dilatory manœuvering.

The confusion in Chilian party life, the lack of cohesion and continuity in party action, the absence of dominating policies, is in the last analysis, due to the fact that none of the parties at the present time rest upon a basis of distinct principles or policies of public action. There is a liberal spirit in Chilian public life, parties are not mere groupings of family or private interest. As a matter of fact, members of the same family may be found in three or four different parties.[5] This quality lends a great interest to Chilian public life and raises it to a high plane. But parliament is suffering from a defect of this great quality, in that the parties are devoid of serious or of stable political foundations. The economic questions which are, at the present time, being discussed, such as the question of metallic conversion, the

[5] The three members of the Huneeus family in the congress of 1906–1909 belong to three different parties.

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question of great public works, the question of the customs tariff, are not dealt with on the basis of party cohesion. The most divergent opinions on these matters may be found in any of the party groups. The same is true of labor and general social legislation. While the radicals and liberals originally resisted such legislation from the point of view of their traditional *laissez faire* theories, all parties have now come to adopt into their programme resolutions favoring improvement in the condition of the poorer classes. On questions of international policy, the parties stand united for any action which will increase the influence of Chile in the councils of the nation. At the liberal convention of 1907, this lack of differentiating policies was discussed and it was pointed out that the only question upon which a distinct issue could be raised with the conservative party was the matter of the relations of the church to the state. Both the radical and the liberal party have adopted a resolution calling for the separation of church and state and for the further development of the system of lay instruction. But it is questionable whether this issue is really sufficiently strong to constitute a pivot of party action. While the clerical influence has been very favorable to the conservative party, the Chilian public does not seem sufficiently interested in a radical remodeling of the relations of the temporal to the clerical powers. The interest in merely structural questions of politics, such as suffrage, disestablishment, etc., has greatly declined the world over. People are more interested in the substance of political action than in matters of structural arrangement. In Chili, moreover, the church is not resisted as an institution. No party desires to combat religion and the church as such. Constitutional arrangements affected by the policies in question, while they will be a subject of discussion and legislation for years to come, do not seem to afford a sufficient basis for a definite, adequate and stable alignment of political parties.

The remedies suggested for the mitigation of the confused conditions in Chilian party life are designed to place the action of parliament upon the basis of general rather than local interest and to discourage the formation of coalitions between opposing parties. The structural changes already discussed which contemplate larger powers in the executive and the creation of more extensive electoral districts tend in this direction. Both the liberal and the radical parties have

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passed resolutions condemning the use of coalitions in parliament. According to the statutes of the radical party, coalitions and combinations can be entered into by that party only after the *Junta Central* or directorate, by a three-fourths majority of votes, has approved of such step. It is also provided that the alliances formed shall always have for their purpose the realization of some points of the radical programme. The adoption of a similar provision was moved in the liberal convention of 1907 but was resisted by members who held that the party should leave itself free to act as the exigencies of parliamentary politics required. The statutes as finally adopted provide simply that no coalition can be entered into without the consent of the general directorate which must have been accorded in a session at which two-thirds of the total directorate are present. It is therefore unlikely that the practice of coalition will be abolished through directly prohibiting such action on the part of party organizations. Even should such a rule be adopted there would still remain the difficulty of enforcing it upon all the members of the party. When in 1909 the liberal directorate tried to remonstrate with several members who had acted counter to the party policy, they refused to be reprimanded and asserted their independence. As long as parties are subdivided and as long as minorities can gain political advantages only through uniting with others, the policy of coalition and alliance will be the method of action in the Chilian parliament. A permanent alliance of the liberal parties in opposition to the conservative forces would, of course, solve the difficulty, but the liberals are separated not only by opinions but also by personal interests to such an extent that a permanent alliance has thus far been impossible. Chilian public life would, indeed, gain enormously could that alliance be established upon a permanent footing, because then Chile would be endowed with that *sine qua non* of successful parliamentary government, the existence of two permanently organized and coherent parties.

In order to see this end achieved, it will perhaps be necessary to wait until stronger economic issues have arisen in Chilian life. Should Chile develop an extensive manufacturing industry resting upon capitalism, there would undoubtedly occur a realignment of political factors leading to the establishment of more permanent parties similar to the two great parties which divide the electorate in England and in

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the United States. The factors in opposition would be the manufacturers on the one hand, the agriculturalists and miners on the other; the city laboring population, the small merchants, the farm-workers in the country regions. Political forces would then be realigned according to dominating economic policies. The questions of social and labor legislation would also assume new aspects upon which men would differ more than they do at present. But meanwhile, as such a basis for permanent party organization is still lacking in Chile, the public men of that country will continue in their efforts to introduce and render current a juster interpretation of parliamentary functions—that parliament is not to interfere in the infinitesimal concerns of the administration but is to be the great council of the nation in which policies are determined upon and in which the action of the government is submitted to a liberal though searching analysis and criticism. More deference will be paid to expertship. Where expertship can speak with authority, parliament will allow it to assert itself. Many Chilian public men bewail the growing materialism of the country; the insistence upon private interest they attribute to a waning of the more ideal enthusiasms of former eras. In that respect, however, Chile with the rest of the world must adjust herself to conditions in which the material interests of the nation are, as a matter of fact, given a great deal of attention. But a nation which energetically develops its resources, which introduces efficiency of organization and administration, which demands exact methods in public accounting, is not, though insisting upon material matters, by any means necessarily shut out from molding all these material concerns into a broad and stable basis for a national life in which all the higher interests may find development and expression. The traditions of Chilian public life are such as to promise that the mastery of natural forces which the age requires will not lead to a deterioration of the national spirit.

Meanwhile, Chile is engaged in an experiment, which political scientists the world over will follow with deep interest. Her experience will contribute a quota of important dimensions to our knowledge of the workings of parliamentary institutions and the interplay of political action organized upon a party basis. The underlying sanity of her political life, the wisdom embodied in her main political tradi-

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tions, give assurance that, whatever present perplexities she may be confronted with her statesmen will patiently work their way to an effective solution.

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FRENCH COLONIZATION IN NORTH AFRICA

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In the contest of the western powers of Europe to colonize the New World, France, owing to a mistaken policy, failed completely and saw her flag and sovereignty practically driven back from this hemisphere. The early attempts of Admiral de Coligny to colonize the Huguenots first in Brazil and then in Florida, were, owing to the indifference and even opposition of the French crown, abortive.[1] And in the later effort of the French crown to colonize in Canada and Louisiana, the attempt to bring over the remains of feudalism as opposed to the strong individualism that characterized the English settlers, reinforced by the Hollanders in New Netherlands, the Swedes and the Germans in Pennsylvania, and the Huguenots in Virginia and the Carolinas, doomed the French settlers, in the valley of the Saint Lawrence and at the mouth of the Mississippi, to defeat in their effort to extend their language and supremacy over the continent of North America.

When the French debarked in July, 1830, in Algeria, they were still dominated by the idea of collective colonization. At that time they had not the slightest notion how to develop a colony. But in time they learnt in the costly school of experience how to colonize, so that today their administration in Algeria and Tunis—owing to such able men as Paul Révoil, ex-governor general of Algeria, Monsieur Jonnart, since May, 1903, governor general of Algeria, and René Millet, ex-resident general of Tunis—is as good as that of the English in India.

[1] Francis Parkman: *Pioneers of France in the New World.* Boston, 1865.

Thomas Balch: *Les Français en Amérique pendant la Guerre de l'Indépendance des États-Unis, 1777–1783.* Paris, 1872, p. 17.

An English translation, *The French in America,* in two volumes, was published at Philadelphia in 1891 and 1895.

Ernest Nys: *Les Origines du Droit International.* Brussels and Paris, 1894, p. 375.

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For a generation after the French captured Algiers, they floundered on from one blunder to another, making but little practical use of their opportunity to build up a New France on the southern side of the inland sea. The chance to colonize North Africa that lay open before France, was, however, clearly pointed out in 1868, to her people and rulers by one of the most brilliant of her writers of the last century. Prévost-Paradol, who at the early age of thirty-four was elected in 1865 a member of the French Academy, showed with force and clearness how France was steadily losing ground in Europe from the fact that her people were increasing in numbers less rapidly than the other races; how she should avoid a clash of arms with Prussia and the German states; how the English speaking peoples were extending their influence in many quarters of the earth; how the Slavonic races were beginning to loom up, and finally, he pointed out how France, in order to retain her influence and power in the affairs of the world should use her utmost endeavors to colonize Algeria with French speaking people. "May that day soon come," he wrote, "when our fellow-citizens, crowded in our French Africa, will overflow into Morocco and Tunis, and will establish finally that Mediterranean empire that will be not only a satisfaction for our pride, but will also certainly be in the future development of the world, the last resource of our grandeur."[2]

It was not, however, until after the overthrow of the empire, and the firm establishment of the republic in France, that French colonization in North Africa began to advance with proper strides. Since the later seventies, however, the French policy in Algeria has become more and more liberal both in spirit and fact. And as a result the colony has progressed in all ways. Today there are more than 300,000 French established in Algeria, two-thirds of them colonial born. Foreigners—Spaniards, Italians, Maltese, Germans and others—have come to the colony. And of these many have become naturalized French citizens, thus increasing the total number of French citizens in the colony today to 425,000. To this number must be added the 70,000 Algerian born Jews. These latter, who enjoy the benefits of French citizenship, all speak French more or less. They send their children to the French schools, their young men perform in the French regiment

[2] Prévost-Paradol: *La France Nouvelle*, first published in 1868. Paris: 1884, p 415, *et seq.*

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the regulation military service required of able bodied Frenchmen, they are gradually learning to dress year by year more and more like Europeans, and are drawing all the time nearer to a complete assimilation with the French population. With the Jews added to the rest of her citizens, France can count today nearly 500,000 citizens in Algeria. In Tunis, where France extended her sway in 1881 under the leadership of Léon Gambetta and Jules Ferry, she counts 35,000 more of her own people and about 3000 naturalized citizens.[3]

With the knowledge gained with the passing of years the efforts of individual Frenchmen, apart from the government, have helped the growth of French influence in Algeria. The most notable of these efforts was the establishment in 1890 of Le Comité de l'Afrique Française. Of this committee Prince d'Arenberg, the president of the Suez Canal Company, is president, and Prince Roland Bonaparte, M. Paul Leroy-Beaulieu, and many other notable Frenchmen are members. This committee has published since the beginning of its existence a monthly magazine, *Le Bulletin du Comité de l'Afrique Française.*[4]

The European population of Algeria has come mostly from the three Latin countries, France, Italy and Spain.[5] Forming the southern of

[3] Augustin Bernard: Le Recensement de 1906 en Algérie et en Tunisie, *Annales de Geographie.* Paris, 1908, p. 24–33, *passim.*

[4] This publication which has a wide circulation in France and her colonies, is a mine filled with facts about Algeria, Tunis and other French African possessions. Another work which contains a wealth of information about Algeria is *Le Peuple Algérien, essais de Démographie Algérienne* par Monsieur Victor Demontès, professor in the Lycée of Algiers (Algiers, 1906). There is a radical difference between these two works. The former is wholly a private undertaking. It is published by an association of private individuals who aim to influence and aid the development of French Africa, and their *Bulletin* is the medium through which they seek to influence both the general French public and the French government, and to its columns Monsieur Demontès is a contributor. The work of Monsieur Demontès, however, was prepared for the colonial exposition at Marseilles in 1906, expressly by direction of the Gouvernement Général de l'Algérie. It is replete with facts that Monsieur Demontès collected for the government with much care and trouble and shows conclusively how a Franco-Algerian race is forming on the southern shore of the Mediterranean Sea. The works of M. Leroy-Beaulieu, the noted economist, *L'Algérie et la Tunisie* and *De la colonisation chez les Peuples Modernes,* are also full of valuable information.

[5] Gaston Loth: *Le Peuplement Italien en Tunisie et en Algèrie.* Paris: 1905. Victor Demontès: *Le Peuple Algérien.* Alger, 1906.

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the four sides that enclose, speaking in general terms, the western half of the Mediterranean Sea, it was natural, owing to proximity and ease of communications, that the greater part of the European immigrants of Algeria should come from those lands, Spain to the west, France to the north and Italy to the east, that formed the other three sides enclosing the western half of that great inland sea. And as a natural result of the geographical position of the three Latin countries as related to Algeria, the Spanish immigrants settled chiefly in the west of Algeria, in the department of Oran, the French in the center, in the department of Alger, and the Italians in the east, in the department of Constantine. But in addition to these three elements there are some 25,000 other foreigners in Algeria. Of these about a half are Maltese who are almost entirely settled in the eastern half of the country. The next most important elements are the Germans and the Swiss. Other nationalities are also represented in small numbers. Of all these strangers, except the Spaniards and the Italians, the French easily absorb the children into their own numbers. For many of the Swiss speak French for their mother tongue and most of those who come from German speaking Switzerland, already know French when they land in Algeria. Consequently the Swiss are easily amalgamated with the French. The Germans are, with few exceptions, Alsacians or Bavarians who have secretly left Germany and taken service in that French military corps known as the French foreign legion. This force, composed of two regiments of 3000 men each, has its headquarters at the city of Sidi-bel-Abbes in the department of Oran in western Algeria. The Alsacian and the other German speaking members of the legion, after serving several years, generally become naturalized French citizens, and marrying French or Spanish girls, bring a Teutonic strain into the otherwise almost entirely Latin blood of the European population of western Algeria. As these soldiers learn French while serving under the French flag, their children, even when the language of the mother is Spanish, learn with the aid of the primary schools, to speak the tongue of the ruling race. The Maltese, who speak a mixture of Arabic and Italian, into which are intermixed English, Spanish, French, Greek and other words of the various languages bordering on the Mediterranean Sea, are so scattered about, that Maltese has never been considered a serious menace to the French language in any part

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of Algeria; and especially as the Maltese are not settled in any large and compact communities, their children naturally tend to become more or less French, though less rapidly than those of the Alsacians, the Bavarians and the other Germans, who have seen service in the foreign legion. But the Italians and the Spaniards have settled in Algeria in such numbers, especially the latter, that the French in some localities have had great difficulty in absorbing them. In fact for a time the Spaniards grew so fast in numbers that they threatened French supremacy in parts of the department of Oran.

However, seeing the danger, the French, learning with experience, that sound but expensive teacher, proceeded to legislate with the view of absorbing the children of the Spaniards and the Italians. Until 1889 there was a good deal of difficulty for a foreigner to become a French citizen. But by a naturalization law enacted in that year, the children born in Algeria of the foreign immigrants became French citizens and the young men were required to serve in the French regiments, if upon attaining their majority they did not decline this citizenship. As a result of this naturalization law, beginning with 1889, every year many young men and young women, born in Algeria, but the children of foreign immigrants, mostly Spaniards, Italians and Maltese, have become French citizens; and the men have served for a year with the French regiments in Algeria. In this way the total number of the French citizens in Algeria has grown year by year until now they number some 425,000. But the foreign element, while it has received fresh reinforcements from across the Mediterranean, has each year, by the process of the automatic naturalization of its sons and daughters, suffered such important losses that it has failed to grow in numbers for the last ten years. The foreigners in Algeria who are citizens of another country are all told today about 220,000, or about half as numerous as the French citizens.

This mere change in the legal status of the children of the strangers into citizens of France, would not by itself alone make French men and women of them. But there are many contributory causes that help to make the Algerian born generations of foreigners into French colonists. Born in Algeria, brought up under a republic, accustomed to see the French flag and the French uniforms and to hear the orders of military command given in the French language, the children of the

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immigrants do not know the lands of their fathers and mothers. And this is still more true of the second Algerian born generation. To them Algeria is their country. The climate has an influence upon them as upon the French, shaping all the children of the Europeans towards a common North African stock, just as we Americans, descended from ancestors who came from different European lands, have been shaped by the climate of America into a race absolutely unlike in physiognomy those of Europe. Besides, the various races intermarry, thus helping to fuse the different European elements into a new African race that looks to French civilization for its intellectual guidance.

To such haphazard influences of assimilation, however, the French government has not trusted to Gallicize the children of the strangers. It has built and opened schools, where the children of the foreigners from six until thirteen years of age are taught to speak and read and write French. And the doors of the higher schools and institutions of learning are open to the few who wish to avail themselves of them. Of course by these means French is not entirely substituted for the various foreign tongues. Yet, inasmuch as practically all of the Spaniards and the Italians are poor and uneducated when they come to Algeria, two-thirds of them neither know how to write nor read, the contact with the French, the ruling race, injects some few French words and idioms into their speech. The necessity of all foreigners learning a few words of French at least is not due solely to the fact that French is the tongue of government, the intellectual classes, and commerce, and a convenient common medium of exchange of thought between foreigners of different nationalities; but also in addition because with rare exceptions, the Italians, far from speaking the speech of Dante, and the Spaniards, the tongue of Cervantes, use various provincial patois. The confusion caused by the mixture of the local dialects of the same national language aids the acquirement by the foreigners of some French, owing to the necessity of every individual in every community knowing a few common every day words at least that may be understood by every one, from whatever land they may happen to come.

This mingling of French with the local foreign idioms is increased among the children who go to school. And in those localities, where the French are much more numerous than the strangers, the latter

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not only learn the language of the ruling race quickly, but are apt to use it as their common every day speech. This is notably the case in the city of Algiers. In that town, the chief port of the colony and its commercial center, the French are much more numerous than the strangers. The foreign colony of Algiers is also more diversified than elsewhere; there its makeup is divided in substantial proportions between the Spaniards, the Italians, and a few thousand Maltese and representatives of various other nationalities. In the city of Constantine also, the French part of the population is so much superior in numbers to the Italians and the Maltese who are among its inhabitants, that there also French is practically the every day speech of all foreigners. But in the western part of the colony, the Spaniards, and along the Algerian coast towards the east, the Italians are so numerous that their respective languages do not give way so easily before French as is the case in the districts round the cities of Algiers and Constantine. However, even in those quarters where the foreign element is most numerous, thanks to the French schools, the French language holds its own and even makes some gains.

The French have come to realize so well how important it is for their future domination to teach French to the rising generations, that the French policy in Algeria is well summed up in the words of Victor Demontès: "La politique française en Algérie est de plus en plus de nos jours une politique scholaire."

As an aid to education, as a means of absorbing the children of the foreigners and also to open new regions to European civilization, the French government has prepared year by year sites for villages to which French colonists were especially attracted. To these villages the names of notable Frenchmen were generally given. Thus for example were created and settled with French farmers, the villages of Lamoricière, Canrobert, Coligny, Voltaire, Rochambeau, Prévost-Paradol and Fromentin.

Another influence that helps the absorbing of the children of the strangers is that many of the Mohammedan inhabitants, both Arabs and Kabyles, learn to speak a little French and to use French money; and they often enlist in the native regiments commanded by French officers. There are also some individual Arabs and Kabyles who, seeking of their own volition the advantages of education offered by

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the French in the higher educational institutions, learn to speak and write French as well as the average educated Frenchman. Some of this elite, like Ismaël Hamet, become officers in the French army[6]; others enter other branches of the French service. Some have read law and become members of the bar. Others have studied medicine to become physicians. And a very few have entered the field of commerce. One, a M. Rahhal, a native of Nedroma in northwestern Algeria close to the Moroccoan frontier, has won for himself a recognized place among Frenchmen of letters. With the passing of years the French have learnt not only how to get along better and better with their Mohammedan fellow subjects, but the futility of trying to make in a few years Frenchmen of the great mass of their Islamic subjects. Instead, the French government is trying to lead both the Arabs and the Kabyles so as to advance by evolution their own Arab or Kabyle civilization, and in that way promote and develop the *modus vivendi* actually existing between the populations of European and African descent. But in this process of evolution a little of the civilization of the French slowly infiltrates into that of the Mohammedans.

To rule this land of mixed races, the French, learning by experience, have gradually changed their system of colonial government so as to meet better than formerly the needs of the situation. Owing to the variety of nationalities in the makeup of the European element, and the mutual jealousies and antipathies of the Christians and the native Jews for one another, and the hate of the Mohammedans for both, the French authorities found great difficulty to maintain peace and order between the various elements.

Beginning about 1900, the powers of the governor general of Algeria, who up to that time was merely an ornamental figure head like the French president, were gradually increased and added to, until he became a strong executive officer, appointed by the French premier, the real executive head of republican France.[7] Thus the prefects of the three Algerian departments of Oran, Alger, and Constantine, all the customs officials, the foresters, the rural police officers, the policemen of the cities, and numerous other members of the civil service of Algeria

[6] Ismaël Hamet: *Les Musulmans français du Nord de l'Afrique*. Paris, 1906.

[7] Waldeck-Rousseau: "L'Algérie," speech of the premier in the chamber of deputies, June 14, 1901, printed in *Politique, Française et Étrangère*. Paris: 1903. p. 375.

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were made appointees, directly or indirectly through subordinates, of the governor general. As a consequent result of this growth in the power of the governor general of Algeria, making him actually the greatest power in the colony, the present incumbent of the office, Monsieur Jonnart, and his immediate predecessor, Paul Révoil, have maintained peace and quiet in the colony in a manner that their predecessor could not.

In Tunis, where France extended her sway in 1881, the efforts of France to colonize in the land where Carthage once held supreme rule have been in many ways successful.[8] Today France counts 35,000 of her own people and about 3000 naturalized citizens, almost all Italians. In addition, living in the Regency of Tunis with the million and a half Mohammedans, there are about 80,000 Italians of whom more than half come from the neighboring island of Sicily. The Maltese in Tunis number about 10,000 and other European races, Spaniards, Greeks, English, etc., amount to 3000 or 4000 more. The Tunisan Jews are about 60,000 in numbers. As in Algeria, so in Tunis, France has done much to advance the country in the line of economic and commercial progress. She has sought also to develop, and with much success, social institutions looking to the eventual fusing in the distant future of all the elements of the population into a people imbued in large mesaure with her own civilization. And towards this end she has built not only harbors, railroads, fine roads, telegraphs, telephones and other accessories of modern commercial development and intercourse, but also France has built schools for her own boys and girls and the children of the foreigners, the Jews and the Mohammedans. As a result of her efforts to open primary education to the various races, about a third of the foreigners in Tunis now speak French more or less, a large part of the Jews know the language, and many Mohammedans also have learnt it. And every year a greater percentage of the children of the foreigners and the Tunisian Jews attend the French schools, and the number of the Mohammedan boys who go to these schools also grows, for as yet the Mohammedans rarely send their girls to the French schools.[9]

[8] Henri Pensa: *L'Avenir de la Tunisie: Proiectorat-Colonisation.* Paris, 1903.

[9] *La Tunisie: Publié par la Revue Générale des Sciences.* Paris, 1896, pp. 1177–1182.

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Wisely adopting the lessons learnt by their successes and failures in governing Algeria, the French have incorporated into their government of Tunis everything that had proved a success in Algeria. And notably having found that it would have been a great aid to them in Algeria to have continued the office of Dey of Algiers with merely nominal powers, the French retained the office of the Bey of Tunis. It is in the latters name that the French resident general of Tunis issues decrees, and using the Bey as a mask, actually governs without too openly appearing to rule.

There is now beginning to form in Tunis, a Franco-Tunisian population, as there has already grown up a Franco-Algerian population of more than 300,000 in the larger of the two French North African colonies.

It is on this Franco-Algerian population, reinforced by a continual inflow from the other European races, that France must count to colonize Morocco in the years to come. With the more rapid increase in the population of other European states, France has gradually fallen from the prepondering place she held 200 years ago at the European council board.[10] And in recent years this loss in France's power and prestige has gone on with great rapidity. The birth rate has steadily fallen in France for a hundred years to such an extent that in the year 1907 there were in France almost 20,000 less births than deaths.[11] That is a fact that, so far as her own population is concerned, speaks defeat for France in the coming struggle with Spain, and perhaps other powers, for the colonial mastery of Morocco. But Spain is still dormant, and each year the French are teaching more and more children of Spanish and Italian parents settled in Algeria to speak French, and loyalty to the French flag. In Algeria, too, France has for the future colonial struggle in Morocco a precious advantage over Spain, in that among the Franco-Algerians, there are some twelve to fifteen thousand Protestants; and in Tunis there are a thousand or two more. And our history shows that the qualities of individualism engendered by Protestantism make for successful colonists.[12]

[10] Ernest Nys: *La Notion et le Rôle de L'Europe en Droit International.* Brussels, 1903, p. 62 (40).

Almanach de Gotha, 1908. Gotha, Justus Perthes.

[11] *Science*, December 18, 1908, p. 877, article entitled French Vital Statistics.

[12] Emile de Laveleye: Le Protestantisme et le Catholicisme, dans leurs rapports avec la liberté et la prosperite des peuples. *Revue de Belgique*, Bruxelles, 15 Janvier,

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The importance and value of Morocco is due to her geographical position.[13] Astride of the Mediterranean Sea and of the Atlantic Ocean, the power established in Morocco will control one side of the western entrance of the Mediterranean,[14] which since the cutting of the Suez Canal, has again become a highway of commerce between the Occident and the Orient. In addition, owing to the Atlas Mountains, some of whose tops are as high as the Alps, and on some of whose peaks the snow rests almost all the year, Morocco is supplied with that all important element in the laws of natural economy, *water*. The moisture borne on the breezes that sweep across the Atlantic are precipitated on the high peaks of the Atlas, and poured into the rivers that give life to the lowlands that lie between the mountains and the ocean and the inland sea.

The future status of Morocco has become most uncertain.[15] Owing to geographical propinquity, France and Spain have strong claims for obtaining the control and possession of the land of the Setting Sun. Spain is giving the first glimmers of an awakening from the long sleep in which the narrow and ignorant policy of her medieval kings wrapped her. The most encouraging sign of this rebirth of Spain is the attempt to readjust her currency with the view of securing to her people the blessings brought by an honest and stable measures of values. Religious toleration is also beginning to gain ground. Doubtless five, perhaps ten years, will pass before she will be ready seriously to attempt to share in the colonization of Morocco. And during these years France will increase her power in Algeria and Tunis, especially in the

1875; republished in *Essais et Études, Première Serie*, 1861–1875. Ghent and Paris, 1894.

Montesquieu: *Esprit des Lois*. Paris, 1867, p. 372.

James S. de Benneville; *More Japonico: A Critique of the Effect of an Idea—Communityism—on the Life and History of a People*. Printed at the Japan Gazette Press, Yokohama, Japan, 1908, p. 311. Mr. de Benneville is now residing in Japan where he has lived a number of years.

[13] Victor Bérard: *L'Affaire Marocaine*. Paris, 1906, p. 1, *et seq.*

[14] R. de Flotte de Roquevaire: *Carte du Maroc, à l'Echelle du, 1,000,000e*. Paris. 1904, Maison Andriveau-Goujon, Henry Barrere, Editeur *Geographe*.

Andrees: *Allgemeiner Handatlas*. Bielefeld and Leipzig, 1906; map entitled Sudeuropa and Mittelmeer, Verkehrskarte, p. 112–113.

[15] René Millet: *Notre politique extérieure de 1898 à 1905*. Paris, 1905. Ernest Nys: *Le Droit International: Les principes, les théories, les faits*. Paris, 1905, vol. ii. pp. 101–102.

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department of Oran, in western Algeria, by teaching French to the children of the Spaniards and other European foreigners as well as to those of the native Jews and to a few thousand of her Mohammedan subjects. For upon her own European population France cannot count for any considerable influx of reinforcements to settle and develop the northwestern African *bled*. The population of Spain, however, is increasing by the steady excess of births over deaths and ready to send a constant and substantial overflow into other lands. Let this current once turn under the lead of liberal and tolerant statesmanship towards Morocco, and it seems reasonable to suppose that Spain will secure for her language and sovereignty, a substantial part of that still almost unknown land, and divide its future occupancy with France.

Of course the Mohammedan population, that is variously estimated by travelers from 6,000,000 or 7,000,000 to 12,000,000 and even up to 15,000,000 in numbers, will play an important part in the future destinies of the country. The French found it no easy task to conquer Algeria, and whether one or two or more powers seek to subdue Morocco, the task, owing to the nature of the country and the hardy independence of the mountaineers of the Atlas and other mountains, will be even a more difficult undertaking than the subjugation of Algeria.

Knowing of the absolute failure of France in her attempts to colonize during the seventeenth and eighteenth centuries in the two Americas, the world at large, and even the mass of the French people, are only now just beginning to realize that France not only has succeeded in her colonization of Algeria much better than in any previous attempt to extend the French race, and language and institutions beyond the seas, but also that France has learnt so much in the expensive but thorough school of experience that today in her North African colonial policy she is abreast of the best English colonial régime in India or elsewhere. But owing to the failure of the French race to increase by a reasonable excess of births over deaths, France's chance to develop her influence in Algeria and Tunis and even extend it westward into Morocco depends upon her ability and capacity to absorb, primarily through education, into the mass of her own Franco-Algerian citizens, the children and grandchildren of the European immigrants who are

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crossing in a constant stream the Mediterranean Sea to build up new homes in that part of the North African *bled* at present controlled by France.

In this land of ours, we of English speech have in the past successfully absorbed, in Pennsylvania first the Swedes and second in great measure the Germans known as Pennsylvania Dutch; in New York the Hollanders; and in the Carolinas the Huguenots. And today we are absorbing other races who speak yet other languages.[16] In other words, France is confronted on a small scale in North Africa with much the same problem that we have solved and are still solving, of absorbing and conforming to one national speech the influx of strangers from other European lands. It is impossible to read the future with certainty. As Byron, however, says: "The best prophet of the future is the past." And all the contemporary signs judging by the past point to France's ability to absorb in her North American possessions the inflowing current of strangers from across the inland sea, by teaching the children and grandchlidren of these foreigners to speak French, and thus to gain for her the necessary population with which to colonize eventually a part of the undeveloped and ill governed so-called *Empire* of Morocco. But "qui vivra, vera."

[16] William Z. Ripley: Races in the United States, the *Atlantic Monthly*. December, 1908.

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NOTES ON CURRENT LEGISLATION

MARGARET A. SCHAFFNER

The Constitutional Union of South Africa. Since writing the report upon the constitution of South Africa, published in the last issue, several important steps have been taken toward its final adoption which require chronicling. On June 2 the Transvaal and Orange River Colony led off by adopting the amended constitution. Cape Colony's assent was registered the next day. The referendum in Natal occurred on June 10, and, contrary to expectation, the constitution was carried by a large majority, 11,121 votes being recorded in favor, and only 3701 against. Every constituency gave an affirmative decision. Each colony then selected delegates to carry the new constitution to England, where it has been introduced into the British parliament, and at present writing is in process of enactment. No opposition has, of course, been encountered in this final stage and its passage in the course of a few weeks is certain. It will require some time to arrange the electoral districts and institute a general election, so that it will be next spring or summer before the new government can be set up. The delegates have proposed to the government that May 31, 1910, be fixed as the date, that being the eighth anniversary of the conclusion of the peace of Vereenigung which put an end to the South African war.

WALTER JAMES SHEPARD.

The Indian Councils Act. On May 25 a measure became law which is not untruthfully described by the *Times* as "one of the most momentous steps which parliament has ever been asked to sanction in Indian affairs." This act marks an epoch in British Indian policy. In the debate on its second reading in the lords, the position was definitely accepted by Lord Morley that administrative efficiency is no longer to be taken as the fundamental principle and criterion of English rule in India; efficiency must be supplemented by political concessions. The American ideal of colonial policy, viz: the development of the capacity for self-government by the natives, through active participation in representative institutions, is henceforth to stand along with the British

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tradition of administrative efficiency as the guide-post of Indian policy. A writer in the *Quarterly Review* is not exaggerating the importance of this legislation in viewing it as "the first step down that slippery slope at the bottom of which lies a parliamentary government for India."

The proximate cause for the passage of this measure is the widely disseminated discontent and agitation among the educated classes of India against British rule. At no time in the history of British India has the spirit of unrest and dissatisfaction been so general or menacing. Lord Morley's wise policy of stern repression of the revolutionary extremists and the concession of liberal measures of reform have already born fruit; but the outlook is very far from clear, and the ultimate success of his measures in entirely dispelling discontent is at least still in doubt.

The Indian councils act is only the central measure in a great system of political reforms. It is a skeleton law, outlining in a very general manner the reforms in the administration of the country, which are to be effectually carried out by supplementary decrees and acts of the Indian government. It is in its nature an enabling act, giving to the government of India, with the approval of the secretary of state, broad powers in extending the representative principle. It cannot be fully or properly understood without reference to the proposals which Lord Morley has already announced will be carried out under its provisions.

Lord Morley's reforms fall naturally under two heads. The most important, and those which have received the most general acquiescence from all sections of opinion in England, have for their object the inclusion of a large element of native Indians, to be elected by a popular suffrage, in the legislative councils of India and of the provinces. Hitherto the legislative council of India has consisted of the six members of the executive council (the viceroy's cabinet), with not less than ten nor more than sixteen additional members.' The practice has been to appoint sixteen 'additional members, six of whom are drawn from official and ten from non-official classes. They are all, however, appointed at the discretion of the governor general, although four of the non-official members are nominated on recommendation of the non-official additional members of the provincial legislative councils, each of these bodies recommending one member, and a fifth is recommended by the Calcutta chamber of commerce. It will thus be seen that a majority of the legislative council is always composed of officials who

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will presumably support the government on every question, and that the composition of the entire council is under the control of the governor general and the secretary of state. The provincial councils are likewise composed of official and non-official members, all appointed by the governor or lieutenant governor, but some of the latter being appointed upon the recommendation of certain bodies representing commercial, agricultural, manufacturing or other interests. In all these councils the majority has always consisted of officials, who are more or less bound to follow the government's lead in every line of policy. The result has been that the meetings of these bodies have assumed a perfunctory, almost a farcical character. The legislative councils under the new law will be greatly enlarged and assume much more the character of deliberative assemblies, the maximum number of members in the council for India being fixed at sixty, and of the provincial councils at from thirty to fifty. They will consist, as heretofore, of an official and a non-official element, but in the provincial councils the non-official element will be in the majority; and in both the Indian and provincial councils a part of the non-official members will be elected by popular vote. The proportion of elected and appointed members, the conditions of the suffrage and of office-holding, the term of office, the number required to make a quorum and the manner of filling casual vacancies are all left to subsequent regulations, and will doubtless vary in different councils.

Not only is the composition of the councils of India and of the provinces made much more popular by the introduction of the elective principle, hitherto unknown in India except in the case of municipalities and the smallest divisions of local government, but these bodies will probably enjoy enhanced privileges in the direction of discussion and criticism of the government's financial arrangements, and will exercise, by means of parliamentary questions, an important control over every branch of the administration. Lord Morley gives evidence of the extensive character of the reforms in the statements: "I do not conceal from myself the risks in such an arrangement. The non-official majority may press legislation of a character disapproved by the executive government. This should be met by the exercise of the power to withhold assent possessed by the government. . . . . On the other hand, and perhaps more often, there may be opposition on the part of the non-official members to legislation that the government desires." The principal safeguards lie in the fact that the council of India will still possess a majority of official members, and in a statute

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already in force which withdraws from the competence of the provincial councils (unless the viceroy previously assents) the consideration of any law concerning taxation imposed by the central government for general purposes; or regulating currency or postal or telegraph business; or altering in any way the penal code; or affecting religion or religious rites and usages; or touching the discipline or maintenance of the military or naval forces; or dealing with patents or copyrights, or the relations of the government with foreign princes or states. These matters are all properly reserved to the central government, where official pressure may still be expected to have its effect.

The second part of the reform scheme, and the one which was most warmly attacked, is the provision for the establishment of executive councils in the provinces. The governor general of India, and the governors of Madras and Bombay, already possess such executive councils. The opposition to the measure was chiefly due to the announcement of the government in advance that native Indians might be appointed to these higher positions, when the right kind of candidates could be discovered. This policy of appointing natives to the highest administrative posts is almost as important a step as the introduction of partially elected legislative councils. Natives are frequently appointed to the legislative councils; but Lord Morley now proposes to place them upon the executive council of India, as well as upon provincial executive councils, and to entrust them with important branches of the administration. The house of lords succeeded in amending the original bill so far as to secure to either house of parliament the right to negative any proposal to establish an executive council in any province where none now exists. It is understood that for the present an executive council will be established only in Bengal.

The reforms in both the executive and legislative councils are seriously complicated and embarrassed by the ever-present question of the proper share which the two elements of Indian society, Hindu and Mohammedan, shall enjoy in the government. The Mohammedans demand equal representation on the executive councils with the Hindus and a proportion of members on the legislative councils larger than that to which their numerical weight would entitle them. The former would involve the appointment of two native members, one of whom would be a Mohammedan, if any native appointment were made to an executive council. This Lord Morley has declared impossible. The second demand is more reasonable and to it the secretary of state has agreed. This means that some form of proportional (or disproportional) rep-

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resentation must be adopted for the elections to the legislative councils. Lord Morley has advocated a system of double registry, by which the sects would be entirely segregated in the choice of representatives. This scheme has not been favorably received by the authorities in India, and has therefore been abandoned. Just how the problem will be worked out is not yet known.

What the ultimate effect of these extensive reforms will be it is of course impossible now to say. Their immediate result has been to greatly diminish the tension under which the government of India has been carried on for some time. In the boldness and far-reaching character of their aims they certainly constitute a most significant turning-point in British Indian policy.

WALTER JAMES SHEPARD.

Employer's Liability. A bill compelling shipping companies to compensate seamen injured in the course of their employment was recently introduced in the parliament of the Australian commonwealth.

Factory Legislation—India. A bill to amend and consolidate the factory law of India was submitted to the viceroy's legislative council on July 30, 1909. The bill was introduced by the member of council for commerce and industry and embodies the principle of restricting the hours of adult men. The bill is intended to apply only to textile factories but power is reserved to extend its provisions to other industries in case of necessity.

Specifically the bill requires that the use of mechanical power in any textile factory shall not exceed twelve hours in any one day, and that no person shall be actually employed in any such factory before half-past five in the morning or after seven in the evening. However, these two restrictions do not apply to any factory for ginning cotton or for pressing cotton or jute. Further provision is made for exemption from the requirement of a twelve hour day in case of state necessities or other exceptional emergencies.

M. A. S.

State Regulation of Fire Insurance Rates. The unsatisfactory results of the anti-compact laws, by which many states have attempted to prevent rate agreements between fire insurance companies, have led to a movement for public regulation of fire insurance rates. The Kansas legislature has passed a bill (S. B. No. 538, approved March 5, 1909)

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directing every fire insurance company to file with the superintendent of insurance general basis schedules showing the rates on all classes of risks insurable by such companies within the state, together with all charges, credits, terms, privileges, and conditions affecting them. Changes may not be made until ten days after filing of notice of change unless the superintendent waives this requirement for good cause. The superintendent may reduce rates deemed excessive, or raise a rate if inadequate. No company is to be permitted to insure any property within the state except in accordance with schedules filed under the provisions of this act, and every sort of refund, privilege, advantage, favor, inducement, or concession is prohibited unless previously filed. In the case of property located within the state for which no rate has been filed by the company, the company may insure, but must file within thirty days a schedule of the property showing the rate, which must conform to the basis schedules already filed. All schedules and local tariffs are to be open to public inspection in the local agencies. Local discriminations within the state are forbidden. Violation of the law constitutes ground for revocation of license by the superintendent, as well as for prosecution of the company and its officers and agents The superintendent is not to make any regulation or order without due notice and hearing. An appeal from the insurance department may be laid before any district court, which may set aside any order found by it to be unreasonable, unjust, excessive, or inadequate. Proceedings in error may be instituted in the supreme court. Farmers'mutuals insuring only farm property are exempted from the provisions of the act.

A similar law has been passed in Texas.

WILLIAM HYDE PRICE.

Labor Exchanges. The substitute of the British government for the labor party's unemployment bill, described in the last REVIEW, is known as the "labor exchanges act, 1909 (Bill 207). It does not guarantee employment to workmen or failing that maintenance for them and their families, as the labor members of parliament demanded. It merely empowers the board of trade to establish and maintain labor exchanges in such places as they may see fit, or they may assist or coöperate with any other labor exchanges maintained by local authorities or private persons. The board of trade may also take over any such private or local public labor exchange. County and borough councils and distress committees which under the unemployed workmen act, 1905 (5 Edw. 7, c. 18), had power to establish and maintain

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labor exchanges or employment registers, will no longer be able to exercise this power after 1910, except with the sanction of, and subject to any conditions imposed by the local government board for England, Scotland, or Ireland as the case may require, and such sanction cannot be given except after consultation with the board of trade.

The object of the labor exchanges is to keep registers of unemployed workmen in different localities and of employers who need help so that workmen may find out where there is work and employers where there are hands. The Board of Trade is also empowered "by such other means as they think fit (to), collect and furnish information as to employers requiring workpeople and workpeople seeking engagement or employment."

The regulations with regard to the management of the labor exchanges are to be made by the board of trade, and they may appoint advisory committees for the purpose of securing advice and assistance in the management of the exchanges. The expenses incurred under the act are to be met from funds provided by parliament.

The labor exchanges act falls far short of what the labor party demanded, but the government party promised gradually to enact legislation which will secure employment to all who desire it.

WM. M. LEISERSON.

Land. A bill to amend the "state closer settlement act" was recently introduced by the government in Victoria, Australia. The bill provides an annual grant of £500,000 for a period of three years for the purchase of estates for closer settlement, and also provides a sum not exceeding £200,000 a year to be used for advances to settlers.

Land. On August 12 the British house of commons passed the clause of the fiance bill which imposes a duty on undeveloped land.

Legal Aid. Colorado has recently enacted a law (1909, c. 183) relating to legal aid dispensaries. The act authorizes students of law schools which have been continuously in existence for at least ten years to appear in court as if licensed to practice law in order to represent any litigants who on account of their poverty may appeal to the dispensaries for legal advice or services.

M. A. S.

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Mineral Waters. Two laws have recently been enacted for the protection of natural mineral springs which have a special interest on account of their bearing on the law of percolating waters. In May 1908 the New York legislature passed an act making it unlawful to pump waters or by any artificial means to accelerate the flow of water from any artificial well, the water of which contains in solution natural mineral salts and an excess of carbonic acid gas when such pumping interferes with the flow of water from any spring owned by any other person. This law was passed particularly for the protection of the Saratoga Springs.

Following the example of New York the owners of mineral springs in Indiana around French Lick and West Baden secured the passage in 1909 of a similar law prohibiting the pumping of water containing specified salts and acids, when the flow of any spring would be diminished or endangered or the quality of the water impaired.

Thus far the courts in New York have upheld the law of that state though it has not been passed upon by the court of appeals.

These laws are in conflict with the trend of judicial opinion concerning percolating waters. A similar law prohibiting waste of water from artesian wells passed in Wisconsin in 1901 was declared unconstitutional by the supreme court of that state. The general rule has been followed that unless there is a clearly defined water course underground the owner of the surface cannot be restricted in his use of waters from artesian wells.

JOHN A. LAPP.

Monopoly. The government of the Australian commonwealth recently introduced a bill to increase the effectiveness of anti-trust legislation. The minister of trade and commerce explained that the recent decisions of the high court made the proposed amendments necessary.

M. A. S.

Pensions—Railroad. The coöperation of the Boston and Maine Railroad, with their employees for the establishment of a pension system under state supervision is provided by a recent act of the Massachusetts legislature (Laws, 1909 Ch., 435). The system is voluntary with the company and the employees. It must be adopted by the directors of the company and by two-thirds vote of the employees voting on the proposition before it becomes operative.

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The pension association consists of all present employees except those who vote against the acceptance of the act and give written notice that they do not wish to join, and all persons entering the service after it is put into operation. The management of the affairs of the association is placed in the hands of seven trustees, three appointed by the board of directors of the railroad, three by the pension association, and one selected by the other six. These trustees have the care of the funds. With the joint approval of the state insurance commission and state actuary they are required to adopt mortality tables and tables of withdrawals for causes other than death, and fix the rates of interest. With the approval of the directors of the railroad, the trustees classify the employees and establish voluntary and compulsory age limits; define the term "continuous service" and fix the period of continuous service which entitles the employee to retire. Employees reaching the voluntary age limit may retire or be retired by the company. At the compulsory age they must retire unless the directors of the railroad and the trustees decide otherwise.

An annual report in detail is required to be made to the state insurance commission.

The funds of the association arise from contributions by the railroad and the members. An entrance fee of one dollar and annual dues of fifty cents are charged to each member and an equal amount is paid by the railroad for the expenses of management. The fund is further divided into "annuities," or the amount paid from funds contributed by the employees and "pensions," or the amount paid from funds contributed by the railroad. The employees pay a per cent of their wages to be fixed by the trustees at not more than 3 per cent except by special vote and each member may deposit more to secure additional annuities. The railroad company contributes each month an amount sufficient to maintain the reserve for pensions and annually the railroad contributes an amount equal to the excess of annuity deposits over the pension contributions and also an amount sufficient to pay the current pensions of employees, who have been retired but who are not entitled to annuities from deposits. Suitable tables for determining excess interest and gains from mortality and withdrawals are required to be made by the trustees with the approval of the insurance commission and state actuary.

Members completing the service period or on being retired are entitled to a life annuity equal to their deposits with interest according to the tables adopted by the trustees. A pension equal to the annuity is paid from the funds contributed by the railroad. Continuous service for

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twenty years entitles a member upon retirement to a minimum pension and annuity of $200, the excess to be paid by the company.

The funds of the pension system are exempt from taxation and attachment and no assignment of any right in the fund is valid. The affairs of the pension system are subject to examination by the insurance commission and state actuary and any violations of law are required to be reported to the attorney general if the unlawful practices are not amended.

JOHN A. LAPP.

Primary Elections—Constitutional Law. The direct primary election law of Illinois which was enacted at a special session of the legislature in February, 1908, has been declared unconstitutional by the supreme court of that state (88 N. E. 821). This is the third direct primary law to be declared unconstitutional in that state in the last four years. The grounds of the decision are: first; that the law made no provision for registering voters who had become eligible to vote in a precinct after the registration for the general election and before the primary and, second; that the party committees were given power to determine the number of candidates to be nominated for the general assembly and restricted the voters at the primary to one vote for each candidate. The court held that the primary election is an election within the meaning of that term as used in the constitution and must be free and equal. The primary election law of 1908 by requiring voters at the primary to be registered and omitting to make provision for registry immediately preceding the election, deprive certain citizens, who have changed their residence, or become of age or have been naturalized since the general election, of their right to vote.

The second objection involved the constitutional provision for the cumulative vote. The law gave authority to the senatorial committee to determine how many candidates should be nominated for the general assembly and the voters were restricted to one vote for each candidate whereas at all elections according to the constitution, as many candidates must be named as there are places to be filled and the voters are permitted to cast a single vote for each or to cumulate their votes on one or two candidates. The primary election being held to be an election within the meaning of the constitution, it is obvious that any law which does not permit the cumulative vote is void. The supreme court in a previous decision (Rouse v. Thompson, 228 Ill. 522, 81 N.E. 1109), had attempted to point the way by saying that the senatorial committee

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might "suggest to the voters of their respective parties the number of candidates that ought to be selected by their party at the primary election for representative in the general assembly and to have such suggestions placed in some form upon the official primary ballot for the guidance of the individual voter." If the parties had been compelled to nominate as many candidates as there were places to be filled the benefits of the cumulative system would be lost unless the votes could be concentrated upon one of the candidates. This would be unlikely if more than one candidate were in the field. The parties have therefore nominated as many candidates as they thought they could elect by cumulating their votes. The direct primary system does not lend itself readily to such an evasion of the constitution unless power is concentrated in some party committee. But it is not constitutional for such committees to do more than suggest the number of candidates and rely upon party loyalty to prevent the nomination of more candidates than the party can expect to elect by the cumulative vote. The grant of power to such committees in this respect was held wholly bad by the court. The voters must be permitted to vote at the primary election for as many candidates as there are offices to be filled and the three persons receiving the highest number of votes must have their names printed on the election ballots regardless of any resolution or suggestion of a committee. Party discipline must be relied upon to take some of the candidates out of the race or secure the cumulation of votes upon one or two of the candidates. The decisions of the court in the three cases involving primary election laws have given a fair outline upon which to base a constitutional law. Judge Carter in a concurring opinion, written because be believed the court should set forth its views on the direct primary in clear and explicit terms in order to aid the legislature said "After all the legislation and litigation on this subject, the legislative branch of the government should be told clearly and explicitly just what conditions must be met in order to draft a constitutional law governing legislative nominations by direct primary. If such a law cannot be drafted without rendering nugatory the constitutional provision for minority representation, as intimated in the majority opinion in this case, then in my judgment the court should state such fact in language that cannot be misunderstood."

There is a clear demand for the direct primary throughout the state. The present chaos of primary machinery is intolerable and a special session will probably be called to formulate a new primary law."

JOHN A. LAPP.

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Primary Elections—Majority Nominations and the Second Choice Vote. Following our universal practice in regular elections most of the direct primary laws provide for nomination by a mere plurality. Hence when there are three, and especially when four or more, candidates for a nomination, the nominee is frequently chosen by a minority, even a small minority, in direct contravention of the fundamental principle of majority rule. This has given rise to what is generally recognized as a distinct problem in the actual workings of the direct primary system.

Thus far only two methods of meeting this problem have been tried by our states, the "second ballot" and the "minimum percentage" plan. Throughout the south, as a rule, an absolute majority is required to nominate. This is provided for by party rules in some states, and by law, general or special, in others.[1] If none of the candidates receives a clear majority a second ballot or primary is had to decide between the two highest. Outside the south no state has hitherto demanded a real majority to nominate, but four, Iowa, Michigan, South Dakota and Washington, have guarded against nomination by *too small* a minority by requiring for a given nomination a minimum percentage (varying from 25 to 40) of the total vote cast for all the candidates seeking it.[2] Last January, after four years' observation and investigation, the Connecticut commission on direct primary laws, recommended to the legislature a draft of a law which requires a minimum percentage of 30 to nominate for certain offices. Only in Iowa and South Dakota, however, is this feature as wide in its application as the direct primary itself, while in Michigan it applied to but two offices.

Hence throughout the north primary nomination by plurality vote, no matter how small (except in Iowa and Washington) is the rule with but one notable exception. This exception is Idaho, whose new direct primary law of this year seeks to meet this problem by a third method, heretofore practically untried in the United States, namely, the preferential or second choice vote.

In recent years bills providing for the second-choice vote have been introduced repeatedly in the legislatures of New York and Wisconsin, but have failed of enactment. Washington, in her direct primary law of 1907, provides for the second choice vote, but its use is very narrowly restricted by three conditions. It is to apply: (1) only to nominations

[1] In at least seven, Florida, Mississippi, Texas, North Carolina, Louisiana, Georgia, Tennessee.

[2] Two of these states, Michigan and South Dakota, have this year repealed this feature of their primary laws and returned to plurality nominations.

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for congressional and state (excluding judicial) offices; (2) only when there are four or more candidates, and (3) only when no candidate receives 40 per cent of the total vote. In 1908 Oregon adopted a constitutional amendment legalizing preferential voting at primary and other elections, but as yet has enacted no legislation for putting it into practice. Therefore it is not too much to say that the Idaho law of 1909 is essentially an innovation, and marks a distinctly new development in direct primary legislation, whose workings will be watched with keen interest by students of political institutions and by both friends and foes of direct primaries.

Under this statute the application of the second choice vote is practically as wide as that of the primary law itself. The elector is to vote for both his first and second choice whenever there are more than twice as many candidates for nomination as there are positions to be filled, i. e., whenever there are more than two candidates for a singular office or four for two places in a plural office, or body. An absolute majority of first choice votes is required to nominate for any office, even the offices of congressman and United States senator. If no candidate for a given nomination receives a clear majority of first choice votes, the second-choice votes of each candidate are to be canvassed and added to his first choice votes. Then the candidate having the largest number of both first and second choice votes combined secures the nomination. Unlike the Australian systems, and the Remsen plan, this law makes no provision for the preliminary elimination of the successive lowest candidates, and the distribution of their vote to the other candidates according to the preferences indicated by the elector. The following tabulations will serve to illustrate graphically the "Idaho system." Supposing there are 300 voters divided among four candidates:

	FIRST CHOICE VOTES.	SECOND CHOICE VOTES.			
		Black	Brown	Gray	White
White	100	40	25	35	0
Gray	75	25	30	0	20
Brown	70	15	0	40	15
Black	55	0	10	33	12

No candidate having received the majority required to nominate, it becomes necessary to canvass the second choice votes of each candidate and add them to his first choice vote. This being done, Gray is found

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to have the largest number of both first and second choice votes and so secures the nomination as follows:

	White	Gray	Brown	Black
First choice votes	100	75	70	35
Second choice votes	47	108	65	80
	147	183	135	135

LEON E. AYLSWORTH.

Railroad Passenger Rates—South Dakota. The great tidal wave of railway passenger rate regulation began in Ohio in 1906, swept over the south and middle west, reached its height in 1907, and since then has been slowly receding. The rising of the wave was marked by discontent with present conditions, a feeling of bitterness and a strong agitation for reductions in rates. Its fall was marked by injunctions, counter injunctions, threats, a struggle for state rights, special sessions, compromises, court decisions, some bitterness toward the courts, and a realization that there had been some hasty action. The laws have not all been contested, and where they have been, sometimes the state has won, sometimes the railroads have won, and sometimes the struggle has resulted in a compromise.

The latest legislation on passenger rates has been in South Dakota. The 1907 law provided for a two and one-half cent rate on all but the narrow gauge roads; they were to be classified by the commission on the basis of their annual earning capacity and their rates fixed accordingly. In 1909 a flat two cent rate was passed. No allowance was made for narrow gauge roads, none for short lines, none for branch lines; they were all placed in the same class and all subjected to the same rate. The only exception that is made—and that was made in a subsequent act and applied only to that portion of the road having the required characteristic—was to exempt railroad companies having roads with a maximum grade exceeding seventy-five feet to the mile, and an average grade exceeding fifty feet to the mile. Violations of the law are made punishable by heavy fines on both the company and the individual agent. The individual may also be imprisoned.

Injunctions have already been issued and we await the final hearing and decision without comment.

ROBERT ARGYLL CAMPBELL.

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Stock Gambling. How to prevent gambling in stocks and produce, without injuring legitimate and necessary transactions and to prevent the manipulation of the stock and produce markets by speculators, is one of the greatest moral and economic problems of the day. The stock exchange of New York and with it the whole of Wall street where it happens to be located have come to be looked upon by the public as a place for gambling on a large scale—an American Monte Carlo,—where men bet upon the price of stocks instead of the roulette table. The conditions existing have brought discredit to legitimate business and for the sake of business as well as of morals, a reform is necessary.

Recognizing the public distrust of the exchanges in New York, Governor Hughes, on December 14, 1908, appointed a special committee consisting of Horace White, Maurice L. Muhleman, Charles A. Schieren, David Leventritt, Clark Williams, John B. Clark, Willard V. King, Samuel H. Ordway, Edward D. Page, and Charles Sprague Smith, to ascertain what changes are advisable in the laws of the state to better regulate speculation in securities and commodities. The work of this committee was voluntary. They possessed no power but they were able through the willing coöperation of business men, members and officers of the exchanges and others to secure the necessary data for a complete report. The report was delivered to the governor, June 7, 1909. It is a document of twenty pages containing a summary of the facts learned about the various exchanges and the recommendations of the committee. On the whole, the report is conservative. It does not seek to minimize the evils of gambling in connection with the exchanges but frankly recognizes the difficulties of eliminating gambling without seriously injuring legitimate business. The report says: "The most fruitful policy will be found in measures which will lessen speculation by persons not qualified to engage in it. In carrying out such a policy exchanges can accomplish more than legislatures." The recommendations for legislation are therefore few. The committee strongly recommends better regulation by the exchanges themselves because they have absolute power over their members. The committee does not favor the prohibition of margin trading or short selling, recognizing these transactions as legitimate in a large number of cases and impossible of separation from the cases of pure gambling. Pyramiding is condemned and the suggestion made that in valuing securities for margins or collateral, the average price for two or three months be taken unless it is higher than the price at the moment. Manipulation of prices is considered but the committee confesses that in case of manipulation there is no remedy short

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of the abolition of the stock exchange itself, though the worst forms of the evils could be prevented by the exercise of the authority and influence of the exchange. "Wash sales" and "matched orders" are also condemned but the regulation is held to be beyond the power of legislation. The authorities of the exchange could it is believed effectually discourage "matched orders." "Wash sales" are unenforceable at law and are condemned by the exchange. The members of the exchange attempting it run the risk of expulsion and consequent financial ruin. The evils arising from "corners" are also considered as subjects of regulation by the exchange. The proposal is made that the governors of the exchange shall have power to decide when a corner exists and to fix a settlement price.

Examination of the books of the members of the exchange is recommended for the exchange but examination by state authority is not favored because of the confidential relations between brokers and their clients. In the listing of securities for admission to the exchange it is recommended that the exchange require frequent statements of the condition and transactions of the issuing companies and in the case of new stocks, a complete statement covering the details of the financial condition of the companies and the terms of the stock issue. The committee advises against abolishing the stock clearing house but recommends that the clearing sheets be preserved for at least six years and be at the disposal of the courts. Branch offices of the exchange are condemned and if not abolished by the exchange it is advised that they be effectively regulated.

The evils of the curb market are outlined but it is not believed advisable to abolish it or to require too elaborate an organization for the reason that another curb would arise free from such restraint. Since the business of the curb comes largely from members of the regular exchange, it is believed that the exchange could effectively regulate the curb by rules affecting its members. The rules of the exchange already prohibit dealing by its members on any other organized exchange. This accounts for the unorganized curb. The powers of the exchange are believed to be sufficient for the purpose of control. The committee was strongly urged to favor the incorporation of the exchange. They advise, however, against it at this time, believing that more good can be accomplished by rules of the exchange. The committee adds: "If, however, wrongdoing recurs and it should appear to the public at large that the exchange has been derelict in exerting its powers and authority to prevent it, we believe that the public will insist upon the incorpora-

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tion of the exchange and its subjection to state authority and supervision."

The committee reviews the work of the incorporated exchanges i.e., the consolidated stock exchange, and the commodity exchanges. Dealing in futures on these exchanges is upheld as necessary to the insurance of business, although the evils are recognized and condemned. The report also reviews the English and German experience in regulating stock and produce exchanges, and touches upon the cognate subjects of holding companies, receiverships, effect of the money market on speculation, and the usury law. While not recommending the repeal of the usury law it is intimated that the committee favors such action on the ground that "money will inevitably seek the point of highest return for its use" the repeal of the exception made to the usury law in 1882 whereby loans of $5000 or more payable on demand and secured by collateral are exempted is not favored because its operation is not confined to speculative loans.

The legislation reommended will not satisfy the advocate of radical measures. The attitude of the committee is that reform can come through the exchanges and that time should be given them to amend the evil practices now existing. They believe that too detailed government regulation will harm legitimate business. Specifically they recommend laws to prevent brokers from rehypothecating or loaning securities held for customers; to prevent fictitious trades; to regulate advertising securities; to better regulate bucket shops by providing that if one party instead of both to a transaction did not intend the delivery of the property, it should be considered gambling, also to require in all cases names of persons to whom stocks are sold and from whom bought, and to require testimony of witnesses. The report broadly hints that if the exchanges do not use their powers of regulation to eliminate the evils, the public demand will be for more detailed and radical regulation.

JOHN A. LAPP.

Stocks and Bonds. The old problem of regulating the issue of stock and bonds at last seems near solution. The problem is an old one; inadequate, misguided attempts were made early without a realization of the difficulty or the evil effects of non-regulated issues, real attempts at solution came more recently and what seems a real solution belongs to a very recent date. Massachusetts seems to have been the leader in the movement toward a real solution beginning first with railroads and fol-

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lowing with other public utilities at a somewhat later date. Texas followed Massachusetts, and was in turn followed by New York and Wisconsin. They in turn have been followed by Kansas—Kansas beginning where Massachusetts did, with railroads and common carriers. The Kansas law is modeled after the Wisconsin measure, containing both its elements of strength and its elements of weakness. Neither have been materially modified.

In Kansas no corporation transacting the business of a common carrier within the state is to issue any stock, stock certificate, bonds or any other evidences of indebtedness payable more than one year from date until it has first obtained a certificate permitting such an issue from the board of railroad commissioners. The actual facts that must be reported depend upon whether the stock and bonds are to be issued for money alone or for money, property or services. In case the stock, stock certificates, bonds, or other evidences of indebtedness are to be issued for money alone, the corporation must file a statement with the board of railway commissioners, signed and verified by its president or other chief officer, having knowledge of the facts, showing the amount and character of the proposed stock, certificates of stock, bonds or other evidences of indebtedness, the general purpose for which they are to be issued, and the total assets and liabilities of the corporation. The board of railroad commissioners may also require the corporation to furnish such further statements of facts as may seem reasonable and pertinent to the inquiry. When this is done, the board must issue a certificate to the corporation stating the amount, character, purposes and terms on which the evidences of indebtedness are proposed to be issued.

In case the stock, certificates of stock, bonds or other evidences of indebtedness are to be issued partly or wholly for property or services, the corporation must file with the board of railway commissioners a statement signed and verified by its president or other chief officer having knowledge of the facts, showing the amount and character of the evidences of indebtedness proposed to be issued, the general purposes for which they are to be issued, a general description and an estimate of the value of the property or services for which they are to be issued, the terms on which they are to be issued or exchanged, the amount of money, if any, to be received in addition to the property, services or other consideration, and the total assets and liabilities of the corporation. The board may require further statements of facts if it seems reasonable and pertinent to the inquiry. When the corporation has complied with these requirements, the commission must issue a certificate to it, setting forth

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the amount, character, general purposes, and terms of the proposed issue and in addition this certificate must show the value of the property or services for which, in whole or in part, the issue is proposed to be made and a general description of the property or services to be given in exchange.

Any stocks or bonds issued and not payable within a year by a corporation in return for property or services are to be void if the property or services are valued substantially in excess of the amount stated in the verified application. No stock or bonds can be issued until this certificate is obtained and no corporation can apply the proceeds from the sale of stocks and bonds to any other purpose or issue them on any terms less favorable than those specified in the certificate unless the consent of the board is obtained. The declaring of any stock or script dividends or the division of the proceeds from the sale of such securities among the stockholders is declared illegal and all stocks, certificates of stock, bonds or other evidences of indebtedness issued contrary to the provisions of this law are to be void.

The weakness of this whole measure is the provision stating that the railroad commissioners must issue the certificate as soon as the corporation has complied with all the requirements set forth in the statutes. No discretion is left in their hands, the law is mandatory, not permissive. The railroad commission of Wisconsin has given this section the one possible interpretation. It held in the case in re Southern Wisconsin Railway Company that the commission could not refuse to grant its certificate authorizing the proposed issue if the applicant had fully complied with the requirement and no illegality existed either in the amount, character, purposes or terms of the proposed issue and that the commission could not impose limitations not authorized by statute nor determine the purposes, terms or conditions upon which such bonds were to be issued, but was obliged to grant its certificate authorizing the amount, for the purposes and upon the terms proposed by the corporation if the proposed issue were legal.

This defect does not appear in the laws of New York, Massachusetts or Texas. In New York, the commission of either district may permit or it may refuse to permit the issue of stocks and bonds. In Massachusetts the whole question is in the hands of the board of railroad commissioners. The criterion by which they are to judge is simply whether or not the stock or bonds are reasonably necessary for the purposes for which they are to be issued. In Texas, as a rule, stocks and bonds can not be issued above the reasonable value of the property, but exception

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is made in cases of emergency and if the company can prove conclusively that the public interests or the preservation of property demands it, the commission may permit stocks and bonds to be issued in excess of the value of the property but not more than 50 per cent in excess. No great evil results from the defect in the law in Wisconsin because the rates are so well regulated that the great motive for stock watering is removed.

ROBERT ARGYLL CAMPBELL.

Swiss Constitutional Amendments of 1908. In Switzerland there has been for many years a steady movement toward centralizing power in the hands of the federal government, involving of course a corresponding decrease in the powers of the cantons. The constitution of 1815 organized what was merely a loose confederation of cantons, but in 1848 a more strongly centralized federal union was created, and the federal power was still further augmented by the constitutional revision of 1874. Since 1874 the centralizing tendency has continued, and has found expression in constitutional amendments; the most important amendments of this character are those of November 13, 1898 extending the federal legislative power over the fields of civil and criminal law, and that of July 11, 1897 granting the confederation power to enact laws concerning the traffic in food products. Two amendments adopted in 1908 still further extend the federal power.

An amendment adopted on July 5, 1908 adds a new article 34 (iii) to the constitution, in the following language: "Art. 34 (iii). The Confederation shall have power to enact uniform regulations with respect to arts and trades." This amendment places practically the whole field of industrial legislation within the province of the confederation.

An amendment of October 25, 1908, adds a new article 24 (ii) to the constitution with respect to the utilization of water power. The most essential portion of this amendment is as follows: "The utilization of water power is placed under the supervision of the confederation. Federal legislation shall establish general regulations necessary to safeguard the public interests and to secure the proper utilization of water power. . . . Under this restriction the cantons shall have power to regulate the utilization of water power. . . . The consent of the confederation is required for the delivery abroad of energy produced by water power. . . . The confederation is authorized to enact legal provisions concerning the transmission and distribution of electric power."

Another amendment, which was adopted on July 5, 1908, relates to the

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prohibition of the sale of absinthe, and extends federal power to a slight extent. This amendment introduces a new article 32 (iii), which reads as follows. "Art. 32 (iii). The manufacture, importation, transportation, sale, or keeping for sale of the liquor known as absinthe is forbidden throughout the confederation. This prohibition extends to all drinks, whatever may be their names, which constitute an imitation of absinthe. The transportation in transit and the use of absinthe for pharmaceutical purposes are excepted. The above prohibition becomes effective two years after its adoption. Federal legislation shall provide the regulations rendered necessary in consequence of this prohibition. The confederation shall have the right by legislation to decree the same prohibition with reference to all other drinks containing absinthe which may constitute a public danger."

W. F. D.

Taxation—England. England is again in need of an increased supply of revenue for the purposes of government. With the old rates and the old sources there must necessarily be a deficit unless there is more economy in administration or unless, perchance, the government gives up certain projects it has undertaken. It is the old and oft-repeated story; the expenses of government are increasing very rapidly and must be met; the old sources must not only be continued in use but the old rates must be raised and new sources of a slightly different character found.

The preliminary estimates of revenue and expenditure show a possible deficit of over £16,000,000. The proposed additional estate duties are estimated to yield £2,850,000; the additional rate and super-tax on incomes, £3,500,000; the additional stamp duties, £650,000; the additional spirit duties, £1,600,000; the additional tobacco duties, £,1,900,-000; and liquor licenses, £2,600,000; making a total of £13,100,000. It is proposed to make up the deficit still remaining in two ways; first by a diminution in the appropriation for the reduction of the national debt, and second by a new land tax estimated to yield £500,000.[1]

All of these items are of interest but this discussion will be limited to the land and mineral taxes, to the estate and succession duties and to the income tax.

Increment Value Duty. A duty, called an increment value duty, amounting to £1 for every £5 of the unearned increment, is to be charged, levied, and paid on the increment value of land. This tax, or a propor-

[1] "The Budget," by Robert Giffin, in *The Quarterly Review*.

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tional part of it, is to become due whenever the land is leased, sold, or transferred, or if no lease or conveyance is made, then at definite and stated periods. It may be either on the occasion of a transfer of the land or any interest in the land by sale, or on the grant of any lease for a term of years, not less than seven, or on the death of any person where land or any interest in the land is included under the inheritance tax act of 1894, or where the land or any interest in it is held by a body corporate or incorporate.

In a problem so difficult as the amount of the unearned increment over a period of years, it is necessary to give some definitions and rules if the law is to be administerd and satisfactory results obtained. The English bill has attempted this. The total value of land is defined as the amount which the fee simple of the land, if sold at the time by a willing seller in the open market in its present condition, might be expected to bring; the site value, the amount which the fee simple of the land, if sold at the time by a willing seller in the open market, mighe be expected to realize if the land were divested of any buildings or of any otherstructures including fixed or attached machinery appurtenant to or used in connection with the buildings and of all growing timber, fruit trees, fruit bushes; and in fact anything else growing upon the land. For the purpose of both total value and site value, the land is to be deemed sold free from incumbrances, but subject to any easements affecting it and to any covenant restricting its use if entered into before the thirtieth day of April, 1909, and if in the opinion of the commissioner the restraint imposed is reasonably necessary in the interest of the public.

The commissioner must allow as a deduction from the site value of the land any part of the value directly attributable to works of a permanent character for the purpose of fitting the land for use as building land or for the purpose of any business, trade, or industry other than agriculture, and also any sums which in the opinion of the commissioners it would be necessary to expend in order to divest the land of buildings, timber, trees, or other things, for the purpose of realizing the full site value. The site value as reduced by these deductions is to be taken as the true site value for the purposes of this act.

With these general definitions and concepts in mind, we may consider the specific rules for calculating the actual increment value. It is to be the amount, if any, by which the site value, at the time when the increment value becomes due, exceeds the original site value. The method of ving at the site value at the time of lease, transfer, or at the end of

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periodic intervals, differs with the lease or conveyance. When the occasion is the transfer of the fee simple by sale, then the site value is to be the value of the consideration; when the occasion is the granting of a lease or the transfer of any interest in the land by sale, then the site value is to be the value of the fee simple calculated on the basis of the value of the consideration for the grant of the lease or the transfer of the interest and when the occasion is the death of a person, then the site value is to be the principal value of the land determined by what it would bring in the open market.

These returns showing the site value are then subject to such deductions as the commissioners may allow. These diminutions may be due to the value of the buildings or other structures, to good will or any other matter which is personal to the individual interested for the time being in the land, and in fact all other values attributable to works of a permanent character. In the case of agricultural lands, the value which is due solely to its capacity for agricultural purposes may be deducted. The sum left after making these deductions is considered as the true site value.

The method of collecting this tax is comparatively simple. It is made a stamp duty and since the increment value is ascertained and payable at the time of transfers and new leases the tax is easily collected and almost unavoidable.

Where there is no transfer of land and no new leases, the object of the law must be accomplished by some other means than a stamp tax on the transfer or lease. Bodies corporate and incorporate in England are already required to render a full and true account of all their property, and the gross annual value, income or profits accruing during the year. The proposed law would require an account of the unearned increment accruing on the land during the period between times of collection. This tax is to be due on the first of April, 1914, and every subsequent fifteenth year thereafter. The duty may be paid yearly instead of in a lump sum if the body corporate or unincorporate so desire. This provision for the collection of the tax from corporations is not to affect the levy of the increment value duty when land or interest in land is sold by them.

Reversion Duty. A tax, called a reversion duty, is also to be levied on the renewal of a lease for a term of years. It amounts to a tax of £1 on the full £10 of the value of the benefit, accruing to the lesser by reason of the determination of the contract. The benefit is deemed to be the amount, if any, by which the total value of the land at the time

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the lease expires exceeds the value of the consideration for the original grant of the lease. This reversion duty and the increment value duty are not to be double taxes, for if the increment value duty is due and it is proven to the satisfaction of the commissioners that the reversion duty has been paid, that payment is looked upon as a payment on the increment value, and, if on the other hand, the reversion duty is due and it is proven to the satisfaction of the commissioners that the increment value duty has been paid, that payment in turn is looked upon as a payment of the reversion duty.

Duty on Undeveloped Lands. The undeveloped land duty is to be a yearly tax levied at the rate of one-half penny for every twenty shillings of site value. Land is deemed to be undeveloped if it has not been improved by being built upon, or by being used bona fide for any business, trade, or industry other than agriculture. Even when land has been once developed and again becomes vacant or unoccupied, it is, after the expiration of one year, to be treated as undeveloped land.

Certain very important exceptions must necessarily be made to this rule and certain of them are made. Land with a site value of less than £50 per acre, agricultural lands of whatever value—but only in so far as the site value of the land is due to the value of the land for agricultural purposes—and parks, gardens, and athletic fields, if used for the benefit of the public, are exempt from the payment of the duty.

Mineral Rights Duty. In addition to the other duties and taxes levied on land, there is to be a mineral right duty at the rate of a half-penny for every twenty shillings of the capital value. The total value of minerals is defined to mean the amount which the fee simple of the minerals might be expected to bring if sold in the open market by a willing seller in their condition at the time of sale and the capital value means the total value after allowing deductions for any sums which have been spent for the purpose of bringing the minerals in working. The undeveloped land duty and the mineral rights duty are to be assessed by the commissioners and payable at any time after the first of January of the year for which the duty is charged.

The commissioners must, as soon as may be after the passage of this act, cause returns to be made for all landowners declaring the total value and the site value of their possessions. These returns are examined and if no objections are made to them, they are considered as the correct, original total value and original site value. If, however, the commissioners consider these values incorrect, they must object and ask the owner to revise them. If the amended return is satisfactory to the commis-

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sioner, it is taken, but if it is not or if the owner refuses to amend them, the value of the land is determined by the commissioners themselves, and their determination is binding except upon appeal.

All owners of undeveloped land and minerals must make a return in the year 1914 and every subsequent year, showing the site value of the land and the capital value of the minerals.

In ordinary cases, any person aggrieved may appeal from the decision of the commissioners to referees appointed by his majesty. These referees are to be men experienced in the valuation of land, and their decision is to be final.

THE INHERITANCE DEATH TAX—DUTIES. Again they have proposed to amend the death duties act. The classification of estates on the basis of value is to be retained but made more minute, and an increase in the corresponding rates is to be added. Under the law now in force the rate begins with £1 per cent on estates exceeding £100, but not exceeding £500, runs up to £10 per cent on estates exceeding £1,000,000. After the £1,000,000 point is reached, the £10 rate per cent continues on the value of the estate up to £1,000,000 but increases very rapidly on the excess over that point until estates of £3,000,000 and over are taxed £10 per cent on £1,000,000 and £15 per cent on the amount over that sum. The proposed law makes the classification more minute and the rates correspondingly higher. A flat rate of 15 per cent is to be imposed on all incomes over £1,000,000 instead of a £10 per cent rate on the first million and an increasing rate on the excess.

The rate of the settlement of estate duty has also been increased from 1 per cent to 2 per cent.

The legacy or succession duty has also been changed and new and higher rates established, which are in part counteracted by higher exemptions. Under the present law, a succession duty of £3 per cent was collected if the successor was a brother or sister or a descendent of a brother or sister of the predecessor. The proposed law raises this rate to 5 per cent. Under the present law if the successor was a brother or sister of the father or mother of the predecessor the rate was £5 per cent, and if a brother or sister of the grandfather or grandmother of the predecessor, the rate was £6 per cent. It is now proposed to change both of these rates to 10 per cent. The exceptions have been increased under the proposed law and now the duty is not to be levied when the principal value of the property passing on the death of the deceased does not exceed £15,000 whatever may be the value of the legacy or necessaries, or when the amount of the legacy claimed by the same person from the

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testator, intestate or predecessor does not exceed £1000, or where the person taking the legacy or succession is a widow or a child of the testator, intestate or predecessor, and the total amount of the legacy or succession claimed by the same person does not exceed £10,000. These exceptions are considerable higher than under the old law and afford some relief to those now subject to the higher rates.

The income tax rate has not only been increased but a super tax on incomes over £5000 has been added. The rate in force during 1907–1908 was one shilling but under the proposed law, it is to be raised to one shilling two pence.

The new feature of the English income tax law is the super tax. The characteristic feature of the English income tax up to date has been the system of collection at the source without any attempt at progression in the rate. In fact, it is a much disputed question whether or not a progressive rate can be used if the tax is collected at the source. England has attempted to solve the problem by adding a super tax but at the same time, has wisely retained the plan of collecting the bulk of the tax before the income reaches the recipient. The super tax seems to necessitate a personal declaration of total income.

The plan is as follows: the regular one shilling two pence tax is collected so far as possible at the source, and then an additional six pence tax on the pound is levied upon the individual's total income in excess of £3000 regardless of source, but only when his total income exceeds £5000. If his total income be less than £5000 the tax would not begin at the £3000 point.

Such, in brief, are the important tax items of the proposed budget. No attempt has been made to discuss the significance of the budget nor yet the tendencies.

ROBERT ARGYLL CAMPBELL.

Taxation—Inheritance, Income and Corporation Taxes—United States.

The task of the present congress (sixty-first, first session) is to revise the tariff and provide revenue sufficient for carrying on all the branches of the federal government. There is a strong belief in congress—in fact it is almost certain—that the new tariff schedules will not yield adequate revenue even if careful economy in administration is practiced. This being true, it is evident that other means of obtaining revenue must be resorted to. The vital question is, What means?

At one time or another, each branch of congress and the president

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have had definite plans, and the plans of each have conflicted with the plans of the other. Even within the senate, there is no harmony and the president has reversed his decision and changed from the advocacy of an income tax to the advocacy of a corporation tax. Within the house alone does there seem to be harmony. The house proposed and worked for an inheritance tax, members of the senate introduced and struggled for an income tax and the president suggested and urged a corporation tax. The politics of the situation will not be discussed, only the bills as introduced and modified.

THE INHERITANCE TAX. The inheritance tax is a house measure. This form of taxation has been introduced, successfully worked out, and administered in a majority of the states, and for this reason mainly, tax experts have resolved that this source of revenue should be denied to the nation and reserved entirely to the states. The house, however, deemed that it should serve as a source of national revenue as well as state. This tax is to be imposed upon the transfer of any property, real or personal, of the value of $500 or over or of any interest in or income from property if that transfer is made to persons or corporations within the United States in either of the two following cases: first, when the transfer is made by residents of the United States or any of its possessions except the Philippine Islands; and second, when the transfer is made by a non-resident if the property is located within the United States or any of its possessions except the Philippine Islands. The law is to apply regardless of the form of conveyance and regardless of the time when the transfer is made or is to take effect.

This tax, as is usual with all taxes on inheritances, is divided according to relationship into the direct and collateral; but contrary to the usual practice, the tax imposed on property inherited by collateral heirs is to be at the flat rate of 5 per cent upon its clear market value above the $500 exemption allowed, while in the case of direct heirs, the rate is not flat but progressive and larger exemptions are allowed. The rate may be flat on either the direct or the collateral and is in a majority of the states, but when the rate is progressive, it is more highly so when property is inherited by collateral than when inherited by direct.

When property real or personal or any beneficial interest in property passes to or for the use of any direct heir, ancestor or one close of kin, it is not to be taxed if it is valued at less than $10,000. The exemption, however, stops here, and if the real or personal property or any beneficial interest in such property is of the value of $10,000 but not exceed-

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ing $100,000 it is taxable at the rate of 1 per cent; if it exceeds $100,000 but does not exceed $500,000 at the rate of 2 per cent; and if it exceeds $500,000 at the rate of 3 per cent. These taxes are to be levied on the clear market value of the property or interest in each case and only upon the amount left after the deduction of the exemption allowed.

Any property devised or bequeathed for any religious, educational, charitable, missionary, benevolent, hospital or infirmary purposes is to be exempt from the provisions of the law and in addition to this, any personal property other than money or securities bequeathed to corporations or associations organized exclusively for the moral or mental improvement of men or women, or for scientific, literary, library, patriotic, cemetery or historical purposes, or for the enforcement of laws relating to children or animals, is not to be considered in the levy of the tax.

If the tax as levied is paid within six months from the time it accrues, a discount of 5 per cent is to be allowed and deducted but if the tax is not paid within eighteen months from the time it accrues, interest is to be charged and collected at the rate of 10 per cent per annum, unless claims made upon the estate, necessary litigation, or other unavoidable causes of delay make it impossible to determine and pay the tax. In such cases, interest at the rate of 6 per cent per annum is to be charged from the time the tax is due until the cause of the delay is removed, and after that the old rate of 10 per cent. The tax or duty is not due or payable until one year after the death of the donor and is to be a lien and charge upon the property for twenty years unless it is fully paid within that time.

The administration of the law is necessarily much different than in the states. There the administration centers around the state probate court. The court officers are also the administrators of the law and no estate can be probated and settled until the tax is either paid or very good security given. Estates are probated in the state and not in the national courts, and this being true, the nation must resort to other means. The administrator is held personally liable for the tax as proposed, but there is no means of stopping the final settlement of the estate. Every executor, administrator or trustee having any legacy or distributive share in trust is to give notice in writing to the collector or deputy collector of the district where the grantor last resided. This must be done within thirty days after the administrator takes charge of the estate and he must before distribution to the legatees, pay to the collector or deputy collector the amount of the tax

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assessed upon the distributive share. As a check upon the payment, the administrator is required to make a statement under oath in duplicate of the amount of the legacy or distributive share. This statement is to contain the names of all persons entitled to a beneficial interest in the estate, together with a statement of the clear value of the interest. The duplicate is to be delivered and the tax paid to the collector and when this statement is delivered and the tax paid, a receipt is given which is declared to be sufficient evidence to entitle the administrator to be credited and allowed the payment in every court having power to settle the accounts of executors or administrators. If the administrator refuses to pay the tax or otherwise comply with the law, the collector must commence appropriate proceedings before any court of the United States against the persons having actual possession of the property or estate and if necessary subject it to seizure and sale.

The chief objection to the proposed national inheritance tax is that it is already in use by the states. The states have developed and perfected it. They need the revenue. Even granting this, the national tax might be justified if the rate were high enough to regulate large fortunes, but in the particular bill in question, they are not. Another fault with the proposed measure is that the rate should be made progressive among collateral as well as among direct heirs, the rate should increase as the relationship of the recipient grows more distant and the amount inherited increases.

THE INCOME TAX. The income tax received considerable attention in the senate. Two separate bills were introduced, one by the Senator Cummins providing for a personal declaration and a progressive rate, and one by Senator Bailey, providing for a tax on corporations and a flat rate.[1] The opposition against both was strong and well organized. This struggle resulted in a compromise which is practically Sentaor Bailey's bill with all of the characteristics of his original and with but few modifications.

The compromise measure provides for a flat rate and the system of collection at the source in the case of corporations. The flat rate in the original bill has been changed from 3 per cent to 2 per cent, and if the stockholder of a corporation has a total income of less than $5000, then the amount of the tax paid by the corporation on his share is to be refunded to him by the government. The intent is to

[1] Reviewed in the August number of the REVIEW.

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exempt any person whose total income is less than $5000 from the payment of the tax either directly or indirectly. One very important addition made in the compromise measure is the provision authorizing the secretary of the treasury to prescribe and establish such a system of bookkeeping as is necessary to insure uniformity of reports.

Broadly speaking, it may be said that the income tax is the most just in theory and the least just in actual practice. It has some defects in theory and is not an entire failure in actual practice. It belongs to the nation rather than to the state and there is reason to believe that a national law can be successfully administered.

THE CORPORATION TAX. The corporation tax has been introduced at the suggestion of the president and for various reasons is meeting with much favor. Every corporation, joint stock company, or association organized for profit and having a capital stock represented by shares, and every insurance company, organized under the laws of the United States or of any state, territory, or dependency, or organized in any foreign country and engaged in business in any state, territory or dependency of the United States, is to be subject annually to a special excise tax equivalent to 1 per cent upon the entire net income over and above $5000 received by it from all sources during the year exclusive of amounts received by it as dividends upon stock of other corporations, or if the corporation is organized under the laws of any foreign country, then upon the amount of net income over and above $5000 received by it from business transacted and capital invested within the United States and its dependencies.

The law, however, is not to apply to labor, agricultural or horticultural organizations, or to fraternal beneficiary societies, orders or associations operating under the lodge system and providing for the payment of life, sick, accident, or other benefits; nor to domestic building and loan associations organized and operated exclusively for the mutual benefit of its members, nor to any corporation or association organized and operated exclusively for religious, charitable or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual.

The net income of domestic corporations is to be ascertained by deducting the following items from the gross income: all the ordinary and necessary expenses actually paid in the maintenance and operation of the business and properties, including all charges, such as rentals or franchise payments required to be made as a condition to the continued use or possession of property; all losses actually sustained

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within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation and in the case of insurance companies, the sums other than dividends paid within the year on policy and annuity contracts and the net addition, if any, required by law to be made to reserve funds; interest actually paid within the year on its funded or other indebtedness up to an amount not exceeding the paid up capital stock of the corporation outstanding at the close of the year, and in the case of banks and trust companies, all interest actually paid during the year on deposits; all sums paid within the year for taxes imposed under the authority of the United States, state or territory, or imposed by the government of any foreign country as a condition to carrying on business there; and all amounts received by it within the year as dividends upon the stock of other companies or corporations.

The principle governing the deductions allowed foreign corporations is the same as for domestic, but the law must necessarily be modified a little and the business of a foreign corporation carried on in America is looked upon as a unit and the corresponding deductions allowed. In addition to these deductions from the gross income, there is to be a deduction of $5000 from the net income, the tax to be computed only on the net income above that amount.

On or before the first of March each year, the president, vice-president, or other principal officer and the treasurer or assistant treasurer of every company or corporation must make a true and accurate return to the collector of the district in which the company or corporation has its principal place of business. This return is in a form drawn up by the commissioner of internal revenue and approved by the secretary of the treasury and must set forth the total amount of the paid up capital stock of the company or corporation outstanding at the close of the year, the total amount of the bonded or other indebtedness, the gross amount of income received during the year from all sources, the total amount of all the ordinary and necessary expenses actually paid out of earnings in the maintenance and operation of the business and properties of the company or corporation, stating separately all charges, such as rentals or franchise payments required to be made as a condition to the continued use or possession of property, the total amount of all losses actually sustained during the year, and not compensated by insurance, stating separately any amounts allowed for depreciation of property and in the case of insurance companies the sums other than dividends paid on policy and annuity contracts and

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the net addition, if any, required by law to be made to reserve funds, the amount of interest actually paid within the year on its bonded or other indebtedness to an amount not exceeding the paid up capital stock of the company or corporation outstanding at the close of the year, and in the case of banks and trust companies all interest paid by it within the year on deposits, the amount paid within the year for taxes, United States, state, territory, or even foreign if imposed as a condition to carrying on business there, and finally the net income after making those deductions as authorized. Foreign companies and corporations must make a report on these same items but it is only for that part of the business carried on in the United States, its territories, Alaska and the District of Columbia. All of these returns when received are to be transmitted by the collector to the commissioners of internal revenue.

Whenever evidence is produced before the commissioner of internal revenue, justifying in his opinion the belief that the return made by any company or corporation is incorrect, or whenever any collector reports to the commissioner of internal revenue that any company or corporation has failed to make a return as required by law, the commissioner of internal revenue may require such further information with reference to its capital, income, losses and expenditures as he may deem expedient, and the commissioner of internal revenue, for the purpose of ascertaining the correctness of the return or for the purpose of making a return where none has been made is authorized by any regularly appointed revenue agent specially designated by him for that purpose, to examine any books and papers bearing upon the matters required to be included in the return of the company or corporation and to require the attendance of any officer or employees and take their testimony. The commissioner may also invoke the aid of any court of the United States to require the attendance of the officers or employees of the company or corporation and the production of their books and papers. With this information in his possession the commissioner may amend any return or make a return where none has been made. All returns made are to be retained by the commissioner of internal revenue and the assessments made by him.

When any return is made with false or fraudulent intent, the commissioner must add 100 per cent, and in case of refusal or neglect to make or verify a return he must add 50 per cent.

All assessments are to be made and the several companies and corporations notified of the amount for which they are liable on or before

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the first day of June of each successive year and the taxes are to be paid on or before the thirtieth day of June. Any sum or sums due and unpaid after that date are to be collected with 5 per cent additional and 1 per cent per month interest as a penalty for the neglect and delay. In addition to this, if any of the companies or corporations refuses or neglects to make a return or renders a false or fraudulent return, they are made liable to a penalty of not less than $1000 and not exceeding $10,000. Any person making a false or fraudulent return or statement with intent to defeat or evade assessment, is to be deemed guilty of a misdemeanor and subject to a fine not exceeding $1000 or to imprisonment not exceeding one year or both, at the discretion of the court.

It is also made unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge any information obtained by him in the discharge of his official duty or to make known the contents of any document received, evidence taken, or report made, except upon the special direction of the president. Any offense against this rule is made punishable by heavy fines, or imprisonment, or both.

When the assessment is made, the returns, together with any corrections which may have been made by the commissioner, are to be filed in the office of the commissioner of internal revenue, and are to be public records and open to inspection as such.

Such, in full, are the provisions of the three schemes proposed by the government for raising additional revenues.

Congress has at last revised the tariff, adopted the corporation tax as a means of raising additional revenue, and adjourned. The inheritance tax was neglected entirely, the income tax voted down, and a proposed constitutional amendment permitting the introduction of an income tax passed.

The situation is not altogether deplorable. The inheritance tax in the form introduced should have been voted down. The inheritance tax belongs to the states and has no place in the financial system of the nation. The income tax bill, while the best that has been introduced in America, is still defective, and more study and thought must be given to its administration. If the constitutional amendment passes the way will be clear to introduce an income tax modeled after those of foreign countries. In the meantime, the administration of the corporation tax will throw light on the difficulties of administering the income tax. It is true, the corporation tax will be shifted in whole or

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in part, depending largely on whether the business is subject to competition or is a monopoly. It will, however, expose some of the evils of corporate management and in the end may give way to a just and well administered income tax.

ROBERT ARGYLL CAMPBELL.

Workingmen's Insurance. Proposed Codification of Laws in Germany. On April 2 of this year, the chancellor presented to the Bundesrat a proposed reform of the workmen's insurance laws. This is not simply an amendment of the existing laws, but an entire reënactment. The proposed code covers 286 quarto pages and the explanation accompanying it adds 133 pages.[1]

No radical reorganization is attempted, the threefold division into sickness, accident, and invalidity insurance being retained. It is proposed, however, to unify the administration by organizing local administrative bodies to deal with all forms of insurance. Above these will be the *Oberversicherungsämter*, and above them the imperial (or provincial) insurance bureau. It is hoped by this means to relieve the imperial insurance bureau of its excessively large number of cases.

It is impossible to take up all of the proposed changes here. On the whole, the most significant feature, aside from the reorganization of tribunals above mentioned, is the extension of the system to cover additional classes of persons. Of especial interest is the addition of *Hinterbleibenbezüge*, that is, pensions for widows and orphans who are incapacitated. The labor press, while approving the extensions, is opposed to the reform in procedure as being less democratic than the old methods.

M. O. LORENZ.

[1] Entwurf einer Reichsversicherungsordnung. Amtliche Ausgabe mit Begrundung, Berlin, Carl Heymanns Verlag, 1909.

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NEWS AND NOTES

Current Municipal Affairs

WILLIAM BENNETT MUNRO

On September 20 the voters of Montreal adopted by an overwhelming majority the act of the Quebec legislature which provided for certain radical changes of municipal organization in the Canadian city. Despite the current American notion that municipal government north of the border has been efficient and progressive, it has been a matter of common knowledge in Canada for some years that their own metropolis was as completely honeycombed by inefficiency, corruption, and brazen dishonesty as any city of equal size on the continent. At the urgent request of various business associations a royal commission was appointed early in the present year to investigate the affairs of Montreal and the evidence presented to this commission disclosed a state of affairs which was not outmatched by New York City even in the days of the Tweed ring. Places and promotions were sold openly, it was shown; contracts went rarely to the lowest bidder and invariably to the parties who stood close to the aldermen; extravagance, waste, and plain maladministration were shown to exist in every branch of the city's business.

The legislature acted promptly; passing an act which reduced the number of aldermen to 25 (one from each ward), and deprived these of all powers save those of making city by-laws and voting the appropriations. It established a board of control or commission, to consist of four members elected at large and the mayor of the city ex-officio. These commissioners are to be paid salaries of not less than $5000 or more than $10,000 as the aldermen may decide. This board of control is to prepare the municipal budget, to have exclusive powers in recommending the expenditure of money, to have charge of the awarding of all contracts, to supervise the spending of money, and to control the heads of all departments.

The act encountered vigorous opposition from interested local politicians; but all the substantial business interests of the city rallied to its support and the voters endorsed it by a decisive vote. The system

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adopted by Montreal has been in operation in Toronto for nearly fifteen years and has there proven very satisfactory.

The University of Wisconsin which has become during the last decade a pioneer in new and fruitful experiments along lines of public service has afforded new evidence of its progressiveness in the recent establishment of a bureau of municipal reference which is to be conducted in connection with its University extension division. It is intended that the bureau shall collect data and information on all subjects of municipal activity with a view to making this information accessible to the cities of Wisconsin in particular but also to American cities at large. At the outset data will be gathered concerning municipal courts, municipal employment, special assessments in cities, garbage disposal, sewage purification, city planning, uniform accounting, public sanitation, and similar subjects. When the information is gathered it will be duly condensed and put at the disposal of the public much in the same way that the legislative reference bureau of Wisconsin prints its regular bulletins. The bureau of municipal reference will also furnish information concerning the scope and wording of city ordinances, and when desired it will loan copies of ordinances adopted by various cities on any topic. It will be able to supply information concerning methods and results in any civic department, in short it will aim to be a clearing-house for municipal experiments and experience, assuming in this respect the service rendered to English cities by the local government board.

The personnel of the bureau affords an adequate guarantee that its work will be well done. Mr. Ford H. Macgregor will be in immediate charge and Mr. Louis E. Reber will hold the post of director. In addition it will have the active coöperation of Dr. Charles McCarthy who has conducted the legislative reference bureau of Wisconsin with such signal success, and of the various professors of political science at the University in Madison. All advice and assistance is to be free, and the correspondence and coöperation of any city which seeks information is heartily solicited.

The Wisconsin University extension division has also arranged to supply popular lecturers on municipal subjects to such organizations as may apply for this service. Subjects such as City Government by Commission, The City Beautiful, and American Municipal Industries appear on the initial list. Descriptive material containing full information in regard to questions and material suitable for debates on municipal topics has also been prepared and may be had on application to the University.

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When the Massachusetts legislature established a permanent finance commission for Boston last spring and made several other important changes in the city's charter it could not reach agreement upon a number of points connected with the methods of nominating officers, the size of the city council, the length of the mayor's term, and the advisability of introducing the "recall" provision. Arrangements were therefore made to have the voters pass upon these matters at the polls. This decision involved no delay, for the state elections precede the municipal by about two months. The voters will decide the general questions at the former in November and two months later will elect city officers under such new arrangements as they may have adopted. Two plans are to go before the people. Plan 1 provides for the nomination of city officers by party conventions (by what might be called regulated party caucuses), for a council of 36 members (one from each of the city wards and nine elected at large), and that the present two-year term of the mayor shall be retained. Plan 2, on the other hand, provides for nomination by petition only, for a council of nine members elected at large with provision for minority representation, and for a four-year mayoral term with the possibility of a recall at the end of two years.

It will be noticed that whatever action the people may take the "joint primary system" will pass out of existence in Boston as a method of nominating municipal officers, and the present large council will at least be cut in two. In the opinion of most of those best qualified to pass an opinion the joint primary system has not been in any way a success in the Massachusetts cities. It has brought in its train practically none of the desirable features which its sponsors predicted some seven years ago. In the main the machine politicians have gone on record as in favor of Plan 1, but not wholly so: some of them have taken kindly to the idea of nomination by petition and have pledged their support to Plan 2. This latter plan, moreover, is backed by the various reform organizations and these are carrying on an active propaganda in its behalf.

The National Municipal League, through its committee on the coördination of instruction in municipal government has conducted during the past year an enquiry into the extent, scope, and methods of the instruction offered in this subject by the various colleges and universities of the United States. Statistics from 165 institutions have been compiled and are printed in the league's last annual report. The figures show that about 50 of these institutions provide more or less extensive courses

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devoted wholly to the study of municipal government and the problems of city administration. Some of the larger institutions, like the University of Chicago and Harvard University maintain six or seven such courses. Among the institutions which do not offer distinct and independent instruction in this branch of political science the great majority report that a part of some general course is given over to the subject. This part varies from a single lecture to one-third of the whole course. The report also discusses various matters of interest to teachers of political science, the methods of instruction in municipal government, the scope covered, and the whole question of class-room machinery such as collateral readings, thesis work, the use of a syllabus, and so on.

Professor Goodnow's new volume on *Municipal Government*, a work to which teachers and students have been looking forward for some little time, has just been issued from the press of The Century Company. It is a substantial volume of nearly four hundred pages affording a general survey of the whole field of city government and administration, and seems excellently adapted to class-room use. A more extended notice of the book will appear in the next number of this REVIEW.

Among recent publications of interest relating to municipal affairs abroad special attention should be drawn to M. Cadoux's *La vie des grandes capitales: études comparatives sur Londres, Paris, et Berlin.* A preface is furnished by M. A. Lefévre, président du Conseil Municipal de Paris. (Paris: Berger-Levrault, 1908, pp. xiii, 259.) The author who is *chief de service* in the Prefecture of the Seine discusses in his various chapters the water services, the lighting, urban transportation, and other public monopolies in the three chief European capitals.

Other foreign monographs of interest are P. Loppin's *Le self-government local en France* (Paris: A. Pedone, 1909, pp. 132), and G. Towler's *Socialism in Local Government* (London: Allen, 1909, pp. 336). Some interesting data concerning the administration of German cities is given in Lindemann und Südekum's *Kommunales Jahrbuch* (Jena, 1908) and the *Verein für Sozialpolitik* has announced that a series of volumes on municipal functions in various European countries will shortly be forthcoming in its own publications.

The subject of the Baldwin Prize competition for 1909–1910 has been announced as City Government by Commission. It is intended that the

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utmost latitude should be given to competitors in their methods of dealing with the topic but the following outline is suggested as one which might be advantageously followed:

1. A very brief outline of the municipal conditions which produced the movement toward the commission system of city government.
2. A study of the Galveston plan as the original type of the commission system.
3. A study of the various modifications of this type as adopted in other cities.
4. An analysis of the working of city government under the commission plan, what has been accomplished, what difficulties the system has encountered, and what remedies or safeguards have been or should be adopted.

Copies of the circular containing the terms of the competition which is open to undergraduates in any American college which offers independent instruction in municipal government may be had from Hon. Clinton Rogers Woodruff, North American Building, Philadelphia.

The American Civic Association and the National Municipal League have arranged to hold their Fifteenth Annual Conference at Cincinnati, Ohio, during the third week in November.

In connection with the compilation of the *Thirteenth Census of the United States* arrangements are being made to issue schedules which will enable the census bureau to issue more detailed and more valuable data relating to urban government and civic activities than it has hitherto been able to supply. Students of municipal science in the United States have not had at their disposal, up to the present time, compilations as comprehensive and as trustworthy as the *Municipal Year Book of the United Kingdom* or the *Statistisches Jahrbuch deutscher Städte* and this has proven a very great handicap. It is expected that this situation will be very greatly improved when the bureau of the census finishes its forthcoming task.

A new publication devoting its pages exclusively to matters of municipal interest has made its appearance. It is entitled *The American City*, and is published in New York by the American City Publishing Company with headquarters at 93 Nassau St. It will be a monthly periodical of about fifty pages and the subscription price is fixed for the present at $1 per year. The first issue contains, among other contributions, articles

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on The Rebuilding of the National Capital, by Hon. H. B. F. MacFarland, of Washington, D. C. on The Indispensableness of City Planning, by ex-President Eliot of Harvard; on The Housing Problem, by Richard Watson Gilder, and on the Individual Responsibility of Officials by President Benjamin Ide Wheeler, of the University of California. This is a very auspicious beginning. There is undoubtedly a place for a good publication in the field which this magazine endeavors to cover.

A phase of civic administration which is engaging more interest in this country is dealt with in *An Introduction to City Planning* by Benjamin Clarke Marsh (New York, 1909, pp. 158, published by the author). The writer is secretary of the committee on congestion of population in New York, (165 Broadway), and has dealt with his subject largely from the standpoint of planning as an aid to the relief of congestion. The book contains a chapter on the technical phases of city planning by Mr. George B. Ford.

A timely and informing article, entitled The German Way of making Better Cities, by Sylvester Baxter, appeared in the July issue of the *Atlantic Monthly*.

At the New York meetings of the American Political Science Association it is proposed to give a place on the programme to a discussion of the methods of instruction in municipal government.

Centralization in Ohio Municipal Government

THOMAS L. SIDLO

The Paine law of Ohio, providing for the remodeling of municipal government, gives to all cities in large part the high degree of centralization of administration that was enjoyed under the old "federal plan." It will be remembered that between 1892 and 1902 three Ohio cities—Cleveland, Toledo and Columbus—operated on a plan of government that justly attracted widespread attention and won national praise. Fixing final responsibility upon the mayor, it divided the administrative affairs of the city into several departments with a director, appointed and removable by the mayor, at the head of each. These officials in turn, with the mayor, then organized into a board of control, which reviewed at semi-weekly meetings the work of the several departments,

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adjusted differences or disagreements, and week after week aimed to round out and consummate the pledged programme.

The city council was very properly relieved of a voice in pure administrative detail. The central government, untrammeled by outside control, was enabled to keep pace with the manifold demands upon the exercise and extension of its functions. The scheme was appropriately called the "federal plan" because it imitated the national cabinet—the mayor corresponding to the president and the several departmental directors to the respective secretarial heads. Eminently successful was the plan, giving to the city rapid, responsible and inexpensive public service. Above all, it made possible the tracing of misgovernment to one source—the office of the chief executive. This ability to attach responsibility and make that responsibility count came out forcibly on the occasion of the defeat of Mayor McKisson, whom the people checked in a promising political career because they were convinced he was seeking to convert this centralized mechanism into a personal political machine. The plan certainly was not abandoned on account of total or partial failure. It was sacrificed in the epoch-making and sweeping decision of the Ohio supreme court which ruled that all special legislation was unconstitutional and therefore null and void.[1]

An elaborate "municipal code" followed as its successor. It is useless at this late date to undertake a discussion of the provisions of this instrument. They have been repeatedly described and discussed elsewhere. In a nutshell, its hundred or more octavo pages containing 231 sections succeeded admirably in decentralizing the prevailing unified machinery bequeathed it. In matters of administrative interest the council was elevated to a position of inordinate importance. The mayor was converted into a figurehead with numerous paper powers. An excellent opportunity was everywhere opened for "loggerhead" situations in the management of the city's business.

Fortunately, on account of the domination of at least three Ohio mayors, many of the abuses which threatened to spring up were crushed in their infancy. Particularly in Cleveland, under the able leadership of Tom L. Johnson, and to a large degree in Toledo, in the respective terms of Sam Jones and Brand Whitlock, the high degree of efficiency created under the "federal plan" was maintained almost unimpaired. The results in Columbus are not definitely known. Cincinnati did not

[1] The "federal plan" had come as a special concession on the part of the legislature to the three cities mentioned.

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use the "federal plan" and therefore no comparison with the code is possible. However, everyone in Ohio concedes that before 1902 the government of the Queen City was in the hands of the state legislature and George B. Cox, while since then it has been in the sole control of the latter. Hence, in the chief cities of Ohio but one, by a happy turn of political fortunes, many possible abuses which the code conceived were never vitalized. However, the good citizens of the state have never been wholly at ease until now. The substitution of the Paine law not only cuts short the code experiment, but it also stills much growing anxiety.

What does the Paine law do? The code had replaced the departmental heads of the "federal plan" by a board of public service, a board of public safety, and a city solicitor, auditor, and treasurer—all elective officers except the board of public safety. The members of the board of public service were left to divide their powers and duties as they pleased. If an opportune division were struck, the city's business stood a fair chance of being transacted with reasonable efficiency. If not, with responsibility shifting from shoulder to shoulder, a breakdown was sure to occur at many points. In the case of the board of public safety, while the members received their appointment at the hands of the mayor[2] and presumably should look to him for direction, so ingeniously did the code twist the reciprocal powers of the mayor and the "safers" by numerous provisions and counter-provisions that in the end the board was left practically free to do as it pleased, if it chose to, and yet be at liberty to thrust all blame for incompetency or negligence either upon the subordinate chiefs (appointed and removable by the mayor) or upon the mayor himself. These are two illustrations of what could easily have occurred (and what perhaps has happened unblushingly in Cincinnati), had not the intervention of the three chief executives we have mentioned brought with it an assurance of fixed responsibility and a conscientious desire to maintain the spirit of Ohio's municipal institutions even though the law had been abrogated.

Let us now proceed directly to the fundamental provisions of the Paine law. First of all, a department of public service and one of public safety are created with a single individual as director at the head of each. Both are appointed and can be removed by the mayor. The three together form a board of control with powers resembling those of the old board under the "federal plan." Within the compass

[2] With the confirmation of the council.

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of the first department are included what may conveniently be called the divisions of public works and parks.[3] Under the control of the second department are brought not only the police and fire divisions but also the departments of charities and correction and buildings.[4] Under the old code the latter two branches constituted departments of public service. The Paine arrangement is not only more logical, but lends itself to a greater degree of working harmony and unified policy for the departments concerned.

Each director is given full control in the management and supervision of his department and in the making of rules and regulations. A limited power of appointment is given in the classified service. His contract prerogative is subject to the $500 rule, beyond which specific appropriation by the council is required. At the same time, no contract above this amount can be awarded at any time without the approval of the board of control, thus ultimately vesting the mayor and directors with discretionary power and responsibility in the making of large expenditures. Each director determines and coördinates the various subdivisions of his department.

[3] Under the code the board of public service in Cleveland was separated into three divisions: public works, parks and charities and correction. The full powers of the department under the new plan (sections 140 and 141) are as follows:

SEC. 140. The director of public service shall supervise the improvement and repair of streets, avenues, alleys, lands, lanes, squares, wharves, docks, landings, market houses, bridges, viaducts, aqueducts, sidewalks, playgrounds, sewers, drains, ditches, culverts, ship channels, streams and water courses; the lighting, sprinkling and cleaning of all public places, the construction of public improvements and public works, except as provided in section 147 hereof, or as otherwise provided in this act.

SEC. 141. The directors of public service shall have the management of all municipal water, lighting and heating plants, parks, baths, market house, cemeteries, crematories, sewage disposal plants and farms, as well as all public buildings and other property of the corporation. . . . . Said directors of public service shall also manage and control all houses of refuge and correction, workhouses, city farm schools, infirmaries, hospitals, pest houses and all other charitable and reformatory institutions. . . . . .

[4] SEC. 147. The director of public safety shall be the chief administrative authority of the fire, police, charity, correction and building departments and shall have all powers and duties connected with and incident to the appointment, regulation and government of these departments, except as otherwise provided by law. . . .

He shall manage and make all contracts in reference to the police stations, fire houses, cemeteries, and reform schools, houses of correction, infirmaries, hospitals, workhouses, farms, pest houses, and all other charitable and reformatory institutions now or hereafter established and maintained.

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In addition to his former quasi-legislative power,[5] there is conferred upon the mayor an extensive appointive power. Besides the directors, all heads of sub-departments and many members of the unclassified service are to receive their commissions from him. His power is rarely contingent upon "the consent of the council." Instead he appoints and removes with a free hand. With such latitude there can be little doubt that the office of chief executive will again return to the exalted place it occupied in the last decade.

A thoroughgoing system of civil service is next introduced. City officials and employees are separated into two categories, the *classified* and the *unclassified* service. In general, the latter branch includes holders of elective positions, departmental and division heads, experts, desultory employees and unskilled laborers.[6] "The classified service shall comprise offices and places not included in the unclassified service," by which is meant the great army of employees of the departments of service and safety. A civil service commission, consisting of three members who hold office for three years and retire in annual rotation, is periodically to be chosen by a committee made up of the president of the board of education, the president of the board of sinking fund commissioners and the president of the city council. The commissioners are endowed with the usual power of making rules and regulations for examinations and "the grading of offices and positions similar in character, in groups and divisions so as to permit the filling of offices and positions in the higher grades as far as practicable through promotions."[7]

The method of appointment to places in the classified service is simple: "The appointing board or officer shall notify the commission of any vacancy to be filled. The commission shall thereupon certify to such board or officer the three candidates graded highest in the respective lists as shown by the result of (such) examination. Such board or officer shall thereupon appoint one of the three so certified."[8] Grades and standings of applicants must be kept on record for at least six months, but the commission may drop an applicant any time after he has been thrice certified. In the case of all appointments and employments, the appointing officer must report back to the commission

[5] Under the code.

[6] See section 158.

[7] See section 159.

[8] See section 160. The plan of permitting the appointing official to select one from a certain number of the highest candidates—three, five or seven—combines the requirements of fair play with the advantage on the city's part of choosing the

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the name of the appointee or employee, the title, character of office, date of commencement of service, salary or compensation and such other information as the commission may require in keeping its roster. The latter record must be open to public inspection "at all reasonable hours." While superior officials may suspend subordinates for a period of not more than thirty days pending a complete investigation, no member of the classified service can be permanently discharged except on the grounds of immorality or incompetency. A reasonable opportunity to know the charges must be given the accused and he must be heard in his own behalf.

Whether the commissioners shall receive compensation or not has wisely been left with the respective city councils to decide.[9] They are, however, required to be resident electors. It is of course of supreme importance that none but men of the highest integrity and regard for the public welfare shall be attracted to this office. All things considered, it seems that the council should either provide for a large salary or none whatever. The appointment of business or professional men of high standing, who will bring to the office the single ambition of placing the civil service upon a strictly business basis, will thus be insured. Experience teaches that a low salary gets a cheap man, while well-compensated or else gratuitous offices secure the highest type of men. In the present instance, a medium salary, say $2000 or $2500, which would secure students or experts from the country at large, is precluded by that despairing *sine qua non* of home rule which insists that all office-holders, high and low, shall be neighbors of the electorate. Some day American legislatures and councils will outgrow this provincial prejudice and, following the European idea, obtain specialists wherever available. That will only be when the popular notion of politics shall have freed itself from the hypnotic illusions of sentiment, and the communistic, brotherly love theory is consigned to oblivion.

These are the main provisions of the new law, a careful examination of which induces the writer to accept it as a sincere attempt on the part of an heretofore intractable legislature to give the cities of Ohio a fuller opportunity for good government. The offices of city auditor,

best all-around man, whether he be the highest on the list or not. In practice this scheme has been found to combine the maximum of justice and efficiency and to obviate disadvantages from which even the civil service system is not free.

[9] SEC. 164. . . . . The council shall provide for the salaries, if any of the commission, for such clerical force, examiners, necessary expenses and accomodations as may be necessary for the work of the commission.

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treasurer and solicitor are not affected by the change, remaining still elective. It is therefore a misnomer to call the Paine act a return to the old "federal plan." The new law assures much centralization of administrative powers, but it does not restore the old departmental form of government.

While people in Ohio will doubtless agree that it is desirable to keep the offices of treasurer and auditor, particularly the latter,[10] independent of outside control by making them directly responsible to the voters, the act ought to have changed the solicitorship from an elective to an appointive basis. The increased latitude of the city's legal responsibilities and the consequent dependence of all departments upon the law department for guidance demand that its head be in political agreement with the administration. Despite a diminution in the partisan spirit in municipal politics, the practices of partisanship still persist and will continue for a long time to come. Consequently, a difference in partisan affiliations between the mayor and the solicitor may easily upset the programme of the former and prevent the realization of the platform upon which he was elected. To grasp this readily one needs only to speculate on the outcome of the street railway struggle in Cleveland if at any stage in its career a Republican solicitor had been elected on the same ticket with Mayor Johnson. Waiving the question whether or no this would have been "a consummation devoutly to be wished," there can be no doubt that the public will would have been thwarted in its main purpose. So closely dependent was the fight for lower fares upon legal sanctions, that an unsympathetic head of the law department might have brought the contest to a premature end through simple inertia.

Personal and Bibliographical

BY J. W. GARNER

The sixth annual meeting of the American Political Science Association will be held in New York City, December 27–31. The American Historical Association, the American Economic Association, and the

[10] A wholesome safeguard is provided in the requirement (section 154-b) that the city auditor shall be present at the opening of bids filed for the letting of contracts by the directors of public service and safety. An elective officer, he is made jointly responsible for any dishonest award by the board of control. Observance and enforcement of this provision will minimize the possibility of the favoritism which notoriously prevailed during the second administration of Mayor McKisson.

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Association for Labor Legislation will hold their annual meetings in New York upon the same days, and joint sessions of the Political Science Association with these kindred societies have been arranged. The programme, as thus far provisionally determined, is as follows. On the evening of Monday, December 27, there will be a general meeting of all the Associations in Carnegie Hall, at which addresses will be given by President Taft, Senator Root and Mayor McClellan. The address by Mr. A. Lawrence Lowell as President of the American Political Science Association will be delivered on Tuesday afternoon. Tuesday evening there will be a joint session with the Association for Labor Legislation, the general subject for discussion being the relation of the State to Labor. Papers will be read by Hon. F. N. Judson, Professor Ernst Freund, Mr. Louis D. Brandeis and others. On Wednesday morning, in coöperation with the American Historical Association, there will be held a Gladstone memorial meeting. President Lowell will preside, and the speakers will include Ambassador Bryce, Professor Fisher of Oxford, Professor Edward Porrit and others. On Thursday morning a joint session with the American Economic Association will be held, the general topic being the value of public franchises. Among those who will read papers will be Dr. Henry C. Adams and Mr. E. Parmalee Prentice. On Thursday afternoon the Association will have a session devoted to the discussion of political problems in the Far East.

Programmes giving the titles of papers to be read, names of speakers, railroad and hotel arrangements, social functions, etc., as finally determined, will be mailed to members of the American Political Science Association early in December.

Ludwig Gumplowicz, professor of public law in the University of Graz, died on August 19 in his seventy-second year. He was a distinguished publicist and a prolific writer on political science and sociology. Among his published works are *Rechtsstaat und Sozialismus* (1881); *Die Rassenkampf* (1883); *Grundriss der Soziologie* (2d ed. 1905); *Osterreichische Staatsrecht* (3rd ed. 1907); *Osterreichische Reichsgeschichte* (1896); *Soziologie und Politik* (1892); *Die Soziologische Staatsidee* (1902); *Geschichte der Staatstheorien* (1905); and *Allgemeines Staatsrecht.*

Dr. Ernst von Halle, professor of staatswissenschaft in the University of Berlin died suddenly last June in his forty-first year. Dr. von Halle was one of the most distinguished of the younger German scholars in the field of economics and political science. He was the author of

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many books and articles mostly on economic subjects, particularly those relating to marine and industrial affairs. He was widely known in America where he had travelled extensively, and was best known here by his book on trusts in the United States, and by his economic history of the Southern states. He was also the founder and editor of a periodical entitled *Die Weltwirtschaft.*

Messrs. E. H. Goodwin of New York, Graham Wallas of London, and Edward Porritt of New Haven have been appointed lecturers on municipal government at Harvard for next year on the income from the Thompson gift.

The class of 1877 of Harvard, of which the late Edward Henry Strobel, who died in 1905, was a member, has raised a fund of $2500 to be known as the Fund in Memory of Edward Henry Strobel, the income of which is to be spent in purchasing books relating to world politics and such kindred topics as territorial expansion, colonial administration, arbitration, etc.

Dr. Howard B. Woolston has been appointed professor of political science in the College of the City of New York. He received his bachelor's degree at Yale in 1898 and did his graduate work at Chicago, Harvard, Berlin, and Columbia, from which latter institution he received the doctor's degree in 1909. He has also had considerable practical experience in social work in Chicago, Boston, New York and Cleveland. The political science department of City College, now in its third year, enrolled over four hundred juniors and seniors in its courses last year.

Mr. Louis Pelzer, who received the degree of doctor of philosophy at the State University of Iowa in June, 1909, has been appointed to a professorship of civics in the Montana State Normal School.

Dr. H. L. McBain has been appointed dean of the college of the political sciences of George Washington University. Dr. McBain has recently published three little books dealing with the governments of Virginia, Alabama, and Tennessee, which have been adopted for use in the schools of those states. Mr. Paul Charlton, law officer of the bureau of insular affairs, has also been added to the staff of the George Washington University and will lecture on colonial administration.

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Mr. William L. Bailey has been appointed instructor in political science at the University of Wisconsin. Mr. Bailey received his bachelor's degree at Queen's University, Ontario, and did his graduate work at Cornell and Wisconsin. His special interests are in rural government which he expects to teach at Wisconsin, and his thesis deals with the scientific agencies of the national government. Mr. Frederic C. Howe will also lecture at Wisconsin on European politics and the theory and practice of politics. Prof. Charles H. Huberich of Leland Stanford will likewise be on the Wisconsin staff during the year and will give a course in Roman law.

Prof. George Grafton Wilson of Brown University will give an advanced course on international law at Harvard during the present year.

A number of university professors and men of university training have recently been appointed to important positions in the public service of the United States. Dr. E. D. Durand has been made director of the census; Mr. W. F. Willoughby, assistant director; Professor Hotchkiss of Northwestern, Professor Glasson of Trinity College, North Carolina, Professor Curtis of Western Reserve, Professor Hicks of Cincinnati, and Professor Baker of Washington University, St. Louis, have been appointed supervisors of the census in their respective districts. Prof. H. C. Emery of Yale has been appointed a member of the tariff commission, and Prof. A. Piatt Andrew of Harvard, director of the mint. Mr. Jacob Conner, formerly an instructor in the University of Pennsylvania, has been appointed consul at St. Petersburg.

Prof. Chas. E. Merriam, who was elected an alderman of Chicago last spring, has been appointed chairman of the finance commission authorized by the city council to make an exhaustive investigation of the subject of municipal expenditures in Chicago.

Mr. Blaine F. Moore has been appointed instructor in political science in the University of Michigan. He did his undergraduate work at the University of Kansas, and his graduate work at Illinois and Columbia. He is the author of a monograph on *The History and Working of the Cumulative Voting System in Illinois.*

Mr. Arnold B. Hall has been appointed instructor in political science at Northwestern University. He did his graduate work at the University of Chicago where he was an assistant during the past year.

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Prof. L. S. Rowe has returned from Mexico where he spent the summer studying the Mexican federal system of government. His study of Mexico is to form part of a series of special studies on federal government on the American continent which he has undertaken to prepare. While in Mexico Professor Rowe, at the request of the minister of public instruction, prepared a plan for the school of political and social science and the school of finance and commerce of the National University to be organized in 1910, in commemoration of the centennial anniversary of Mexican independence. While in Mexico Professor Rowe was presented with a diploma of honorary membership in the Mexican Society of Geography and Statistics, the presentation being made by Lic. Félix Romero, president of the supreme court of the republic.

The extension division of the University of Wisconsin has established a bureau of municipal reference which will collect data and information on all subjects of municipal activity and municipal government with a view to making such material accessible to the cities of the state. Information will be collected and distributed on such subjects as municipal courts, municipal employment, special assessments, garbage disposal, sewage purification, city plans, uniform accounting, public sanitation and similar subjects. The bureau will be in charge of Mr. Ford H. MacGregor, a graduate of the University of Michigan, who has been for several years actively engaged in municipal and civic work in Detroit and Grand Rapids. During the past year he has been connected with the legislative reference bureau at Madison.

Among the new publications of the Columbia University Press (Studies in History, Economics and Public Law) are: *Psychological Interpretations of Society*, by Michael M. Davis, Ph.D; *Transportation and Industrial Development in the Middle West*, by William F. Gephart, Ph.D.; *Social Reform and the Reformation* by Jacob S. Schapiro, Ph.D.; *Responsibility for Crime*, by Philip A. Parsons, Ph.D.; *The Conflict over Judicial Powers in the United States to 1870*, by Charles G. Haines, Ph.D.; *A Study of the Population of Manhattanville*, by Howard B. Woolston, Ph.D.; and *An Introduction to the Sources Relating to the Germanic Invasions*, by Carlton H. Hayes, Ph.D.

A History of the Election of United States Senators from Iowa is being prepared by Mr. D. E. Clark under the direction of the State Historical Society of Iowa.

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Prof. Paul S. Reinsch of the University of Wisconsin is the author of *The Young Citizen's Reader* (New York: B. H. Sanborn and Company, pp. vii, 258) in which an attempt is made to present the subject of government in a form simple enough to be readily understood by children. Emphasis is laid upon the work which governments do rather than upon the forms of governmental organization.

The government printing office has recently issued the *Rules of the House of Representatives of the United States with a digest of the practice* (Washington, 1909, pp. 717), edited by Mr. Asher C. Hinds, clerk at the Speaker's Table. With each rule is given an historical and descriptive note, and the volume gives in compact form a statement of the facts necessary for an understanding of procedure in the House of Representatives. In the notes have been condensed much of the material published in Mr. Hinds' larger work on *Precedents of the House of Representatives*.

Prof. George Elliott Howard of the University of Nebraska has recently prepared an analytical reference syllabus for use in a course on the Biography of American Statesmanship. (University of Nebraska, 1909, pp. 75.) Professor Howard thinks that American history may be profitably studied through a treatment of the lives of prominent leaders, and presents in his syllabus an outline of the material which should furnish the basis for such a study. Seventeen individuals have been chosen for full treatment, and brief outlines are given for the study of thirteen other men prominent in American civil and military history.

The following books upon political subjects are announced for fall publication: *Police Administration; A Critical Study of Police Organizations in the United States and Abroad*, by Leonard Felix Fuld (Putnam); *Biographical Story of the Constitution*, by Prof. Edward G. Elliott (Putnam); *History of Mediæval Political Theory in the West*, Vol. II, by R. W. and A. J. Carlyle (Putnam); *Democracy and the Organization of Political Parties*, abridged edition, by M. Ostrogorski (Macmillan); *The Day in Court, or the Modern Jury Lawyer*, by Francis S. Wellman (Macmillan); *The Relations of the United States with Spain*, by Rear-Admiral F. E. Chadwick (Scribner); *Privilege and Democracy in America*, by Frederick C. Howe (*Scribner*); *Diplomatic Memoirs*, by John W. Foster (Houghton, Mifflin); *American Foreign Policy*, by A Diplomatist (Hough-

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ton, Mifflin); *The American People*, by A. Maurice Low (Houghton, Mifflin); *Equal Suffrage in Colorado*, by Helen L. Sumner (Harper); *The Southern South*, by Albert Bushnell Hart (Appleton); *Chinese Immigration*, by Mary R. Coolidge (Holt); *A Modern City; the Activities of Providence, Rhode Island*, edited by William Kirk (University of Chicago Press); *Principles of International Law*, new edition, by T. J. Lawrence (D. C. Heath); *The State*, with revision of the sections on Norway and Sweden, by Woodrow Wilson (D. C. Heath); and *The Spirit of Youth and the City Streets*, by Jane Addams (Macmillan).

The annual convention of the League of American Municipalities was held this year at Montreal during the last week in August. Of some 200 cities holding membership in the League about fifty sent delegates, the total attendance being about five hundred. The subject which received most attention was the commission form of municipal government. Mayor Conrad of San Diego, California, made a highly favorable report on the working of the commission plan in that city. Mr. C. R. Woodruff reviewed the growth of the commission system which has now been adopted he says, in one form or another in about fifty cities. Municipal revenue and the regulation of public service corporations were also subjects of special consideration. Alderman David Heineman of Detroit was elected president of the League and Mr. John MacVicar of Des Moines was reëlected secretary. The next convention of the League will be held at St. Paul.

The annual meeting of the National Municipal League this year will be held at Cincinnati, November 15–18. The annual address of the president, Hon. Chas. J. Bonaparte, will be delivered Monday evening, November 15th, and will deal with certain phases of the direct nomination problem. On the same evening Mr. J. Horace McFarland, president of the American Civic Association, will deliver his annual address. Special attention will be given to the subject of education in municipal government in the colleges, which subject will be discussed by a group of prominent educators. Other topics in the program for discussion are municipal health problems; immigration and the municipal problem; the liquor question in the cities; electoral reform; public service franchises; municipal budgets and expenditures, and charter reform and municipal research. Among those announced to take part in the discussions are Mr. M. N. Baker, Congressman William S. Bennett, Prof. A. R. Hatton, Mr. Lawrence Veiller, Mr. Milo R. Maltbie, Horace Deming, Esq., and Dr. Legrand W. Powers.

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Prof. Charles A. Beard of Columbia University has published a very useful collection of *Readings in American Government and Politics*, designed to accompany his work on *American Government and Politics* now in course of preparation (The MacMillan Company, pp. xxiii, 624). The collection embraces 237 readings, consisting of the texts of constitutions, statutes, records of town meetings, party platforms, letters from the *Federalist*, public documents of various kinds, court decisions, letters and addresses of publicists, extracts from magazine articles and from selected chapters in books, opinions of attorneys-general, specimens of convention oratory, legislative reports, reports of boards and commissions of various kinds, and many other selections too numerous to mention. The readings are arranged in three parts: those relating to historical foundations, those dealing with the national government, and those dealing with state and local government. Each part is again subdivided into a number of chapters, aggregating altogether thirty-two. An examination of the work shows that enormous labor has been expended in the search for suitable material; that the selections have been well chosen and that they have been arranged with painstaking care. It is safe to say that no collection of its size contains such a quantity and variety of source material bearing upon the organization and administration of government in this country and it will doubtless prove to be a valuable aid to teachers of government.

Essays in Politics by Andrew McPhail (New York: Longmans, pp. 301, 1909) is a series of essays on a variety of subjects but dealing in the main with the relations between England and Canada and with Canadian domestic politics. In a chapter on The Patience of England he dwells upon the spirit of patience and forbearance which has usually characterized the dealings of England with other peoples, particularly those of Canada, the United States and South Africa. Another essay entitled New Lamps for Old is devoted mainly to a discussion of the spirit of lawlessness in the United States and the judgment he passes upon us will no doubt cause heartburning, though it must be admitted that much of what he says to our discredit is true. In a chapter on British Diplomacy and Canada he reviews the policy of the mother country toward the Dominion in a spirit of fairness and calmness not often found in Canadian writers of today. His attitude contrasts noticeably with the recent utterances of Sir Wilfred Laurier that the record of British diplomacy so far as Canada is concerned has been a repetition of sacrifices of Canadian interests, and that the Dominion will never be content until

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it possesses the full power of making its own treaties. Other chapters deal with protection and reciprocity, the psychology of the Canadian people, the downfall of the conservatives, the spirit of the Dominion, what Canada can do, etc.

Volumes VI and VII of *The Laws of England* edited by the Earl of Halsbury and others, and to which reference was made in a previous number of this REVIEW, has appeared (London; Butterworth and Co., 1909, pp. cxxxi, 499; clxvi, 544). Volume VI contains the article on Constitutional Law covering 467 pages.

The Power of Eminent Domain by Philip Nichols (Boston: Boston Book Company, 1909, pp. xxi, 560) is the title of a new treatise dealing mainly with the constitutional limitations on the power of expropriation. The author analyzes the powers of the state in regard to private property; distinguishes between the jurisdiction of the national and state governments in the matter of eminent domain; discusses the question of what is a public use and what is property; and considers the problem of "just compensation." The author was formerly assistant corporation counsel of the city of Boston.

A new (4th) edition of Sir William Anson's *Law and Custom of the Constitution*, Volume I, *Parliament*, has been issued by the Clarendon Press. A large part of the volume has been rewritten or recast in view of recent developments and an interesting introduction dealing with the constitutional changes of the last quarter of a century has been added. The question of minority representation is discussed at some length as is the subject of procedure in the house of commons. The committee stages of a bill, closure, conflicts between the two houses, and peerage law receive attention. There is added also an index of cases and of statutes cited. The author acknowledges his indebtedness to two foreign writers, Dr. Redlich and President A. Lawrence Lowell.

The seventh and eighth volumeso f Prof. J. B. Moore's *Writings of James Buchanan* have recently appeared from the press of J. B. Lippincott. The seventh volume contains the correspondence of Buchanan as secretary of state during the years 1846–1848 and the eighth volume covers the period from 1848 to 1853. The correspondence contained in the seventh volume relates mainly to the Oregon boundary controversy, the independence of Hawaii, the opening of China and the peace negotia-

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tions with Mexico. It also contains the report of 1846 on the consular service.

A new and revised edition of Frederick H. Cooke's *Trade and Labor Combinations* has been issued by Callaghan and Company of Chicago. This work deals mainly with the subjects of boycotts, strikes, conspiracies, injunctions in labor disputes, monopolies, pools, trusts and kindred subjects. The anti-trust acts, both federal and state, are fully discussed and annotated. The present edition has been largely rewritten and brought down to date.

The report of the proceedings of the fifteenth annual meeting of the Lake Mohonk Conference on International Arbitration, held at Mohonk Lake, May 19–21, 1909, is a volume of 208 pages. It contains the addresses and remarks of the speakers, the platform of the conference, reports of various organizations, the report of the committee on colleges and universities and the Pugsley prize essay. Among the more important addresses may be noted those of President Butler, Professor Kirchwey, Hon. W. I. Buchanan, Hon. J. B. Scott, His Excellency Wu Ting Fang, Rt. Hon. James Bryce and Hon. Richard Bartholdt.

The Lake Mohonk Conference on International Arbitration offers a prize of $100 for the best essay on international arbitration by an undergraduate student of any American college or university. Essays must not exceed 5000 words and must be in the hands of Mr. H. C. Phillips, Secretary Lake Mohonk Conference, Mohonk Lake, N. Y., not later than March 15, 1910. The donor of the prize is Chester Dewitt Pugsley of Peekskill, New York, and the judges by whom the award will be made are President Nicholas Murray Butler, Prof. George Grafton Wilson, and Hon. Richard Bartholdt. A similar prize of $50 was offered last year and fifty essays were submitted in competition for it. The successful competitor was Mr. L. B. Bobbitt, a sophomore in Johns Hopkins University.

The American Institute of Criminal Law and Criminology which was organized at Chicago in June is maturing plans for the early establishment of a journal to be devoted to the scientific study of criminal law and criminology. It will be the only one of its kind published in the English language, though there are some twenty-five such journals published in foreign languages. Subscriptions will be received at 86 East Lake street, Chicago.

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The influence of the National Conference on Criminal Law and Criminology held at Chicago has already begun to spread. A committee of fifty has been formed at Madison under the chairmanship of Prof. E. A. Ross and a call has been issued for a state conference on criminal law and criminology to be held at Madison during the last week of November. Other state conferences are expected to be held during the winter.

The July number of the *Bulletin of International Union of American Republics* is devoted entirely to the annual review for the year 1908 of the Latin-American republics. The year was marked by numerous gatherings representative of the national life, both in Latin-America and in the United States. Events of paramount importance were the putting into effect of the various conventions of the Washington Peace Conference of 1907, entered into by the Central American republics. As a result of these conventions the Central American court of justice held its first session at Cartago, Costa Rica, in May, 1908. In September the Central American Bureau was inaugurated in the capital of Guatemala for the advancement of the mutual interests of the Central American states. Other notable gatherings were the Central American Conference at Tegucigalpa, the Pan-American Medical Congress at Guatemala, and the Pan-American Scientific Congress at Santiago, Chile. The next meeting of the latter congress will be held in Washington in 1912.

The annual meeting of the American Prison Association was held at Seattle, August 14–19. An elaborate program consisting of addresses, reports and conferences was carried out. Among the reports presented to the association was one by Oscar K. Cushing of San Francisco on Criminal Law Reform. The general secretary of the association is Mr. J. P. Byers, Randall's Island, New York.

The New York state library *Index of Legislation*, covering the period from October 1, 1907 to October 1, 1908, prepared by Mr. Clarence B. Lester, has recently appeared. During the period covered by the present index sessions of the legislature were held in twenty-five states, and 6025 laws and resolutions were enacted; the largest number being in Massachusetts, where 805 acts were passed. During the same period fifty-one statutes were declared unconstitutional, the largest number being in Illinois where six acts were pronounced invalid by the supreme court. Sixty-four constitutional amendments were ratified, of which

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fifteen were in Louisiana and ten in California. Forty-five amendments were rejected, and at the time of publication thirty-four others were pending.

The annual report on *Statistics of Crime in the State of New York*, compiled by the secretary of state (Albany: The J. B. Lyon Company, 1908), is an interesting document of 467 pages containing statistics concerning the number of convictions in the courts of record of each county, the number of convictions of each species of crime, the proportion of male to female offenders, the social relations and occupation of each offender, the number of indictments tried in each county and the convictions, the number of persons pardoned or reprieved, etc. The information was gathered from reports of clerks of courts who are required by the code of criminal procedure to report to the secretary of state upon crime committed within their jurisdictions.

The Juristische Gesellschaft of Berlin has offered a prize of 2000 marks for the best essay on the subject of Criminal Law Protection for the Young. Essays must be submitted not later than July 1, 1910 and the award will be announced in April, 1911. Information regarding the conditions of the competition may be had of Dr. Seligsohn, Berlin, N. W., Prinz Louis Ferdinand Strasse.

The Comparative Law Bureau of the American Bar Association was organized in August, 1907, and has issued two annual bulletins. The first, that of July, 1908, was a slight pamphlet of about 70 pages; but the second bulletin, which has recently appeared, is a substantial volume of nearly 200 pages, and contains much important information. There are several special articles; but the greater part of the Bulletin is devoted to reviews of recent legislation and legal literature in Austria-Hungary, Belgium, China, France, Great Britain, Holland, Italy, Japan, Latin America, Portugal, Spain and Switzerland. In some cases these reviews are very fragmentary, but for several countries they give valuable summaries of legal activities during the year 1908; especially important are the sections devoted to Germany, Spain, and Switzerland. An English translation of the Swiss civil code will be published by the Bureau in the near future.

During the past few years many new societies have been organized for the purpose of working in the field of comparative jurisprudence.

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In the last number of this REVIEW reference was made to the organization of the Belgian Institut de Droit Comparé and the American Institute of Criminal Law and Criminology. In 1908 the Instituto Ibero-Americano de Derecho Positivo Comparado was organized at Madrid for the study of Spanish and Spanish-American Law. Recently an internationale Vereinigung für Rechts- und Wirtschaftsphilosophie has been organized at Berlin under the honorary presidency of Prof. Josef Kohler; this new organization has taken under its control the publication of the *Archiv fur Rechts- und Wirtschaftsphilosophie*, Professor Kohler and Dr. Berolzheimer remaining as editors of the *Archiv*.

The National Municipal League is collecting material for a study of the police problem in American cities. The investigation for the present will be confined to the experience of typical cities and the results of the different methods of police control.

Supervision of Street Railways in England and Prussia is the title of a reprint from the annual report of the public service commission for the first district of the state of New York for the year ending December 31, 1908 (Albany: J. B. Lyon Company, 76 pp). It contains a comparison and summary of street railway problems and franchise procedure in both countries and two reports by Dr. Robert H. Whitten on street railway supervision in England and Prussia.

Industrial Individualism and the Limit of Government Regulation and Control is the title of a work by Andrew Alexander Bruce, Dean of the College of Law of the University of North Dakota. Professor Bruce discusses at length the various theories of individualism and reviews the doctrines of the American courts in regard to the limits of state action in economic and industrial affairs. He himself pronounces in favor of the doctrine of Bentham, which was also the doctrine of Mill and Spencer, that the individual is generally the best judge of his own happiness and governmental restraint upon individual freedom is justifiable only when it is necessary to secure the equal freedom of others.

A Documentary History of American Industrial Society in ten volumes edited by John R. Commons, U. B. Phillips, E. A. Gilmore, Helen L. Sumner and John B. Andrews, prepared under the auspices of the American Bureau of Industrial Research, with the coöperation of the Carnegie Institution, is being published by the Arthur H. Clark Company of

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Cleveland, Ohio. Volumes I and II contain documents relating to plantation and frontier life, and are edited by Professor Phillips; volumes III and IV edited by Professors Commons and Gilmore deal with labor conspiracy cases; the remaining volumes deal with the labor movement from 1820 to 1880. Volume X will contain an exhaustive analytical index.

Mr. H. Stanley Jevons, lecturer in economics and political science in the University College of South Wales and Monmouthshire, is the author of a study entitled *Foreign Trade in Coal* which is the first of a series of publications in political and economic science to be issued by the institution with which he is connected (London: P. S. King & Son).

Philanthropy and the State or Social Politics by Kirkman Gray is a study of the relation of the state to the weaker classes of society. His thesis is that private philanthropy cannot provide a remedy for widespread want which results from broad and general social causes; that it ought not to be expected to do so; and that the duty of making provision for such remedies belongs to the state and should be accepted as such (London: P. S. King and Son).

Prof. A. V. Dicey has lately written a little book, entitled *Letters to a Friend on Votes for Women* (London: Murray) which contains a powerful argument against woman suffrage. In a clear, logical style fortified with wide legal and political learning he analyzes the nature of the elective franchise, and reviews the arguments for and against female suffrage in such a manner as to leave no doubt as to his own views. He admits that he was once a supporter of woman suffrage, his early opinions having been formed under the influence of the teachings of Mill who favored the extension of political rights to women; but more mature reflection and wider observation have led him to change his views.

A new contribution to the literature of internationalism has been made by E. Duplessix under the title *L'organisation Internationale* (Paris: Larose et Tenin, 1909). The conception of a world organization as a means of guaranteeing international peace has been a favorite theme of discussion in recent years and several works on the subject have already appeared, notably those of Fried and Schücking in Germany. Internationalism says Duplessix is taking possession of the world and is manifesting itself in many forms, political, economic and intellectual.

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The principal obstacles in the way he shows are diversity of local custom, of law and of jurisdictions. These obstacles, he thinks are destined gradually to disappear. The details of his project of international organization are embodied in a proposed treaty accompanying the text of his treatise.

La Guerre et Les Traités: Étude de Droit International et d'Histoire Diplomatique by Robert Jacomet, with a preface by M. Léon Bourgeois (Paris: Charles-Lavauzelle, 1909) is a work which deals with the subject of the effect of war on treaties. After an introduction in which the author reviews the change of opinion that has taken place during the last two centuries concerning the effect of war upon the relations of states he examines at length the theory and practice that obtained from 1648 to 1815 and then from 1815 to the present day, emphasizing the different conceptions which characterized the two periods. The modern view he declares is that the great majority of international agreements are unaffected by hostilities between the contracting parties, the principal exceptions being treaties of a political character such as those of alliance, and commercial agreements.

M. Ernest Lehr, a distinguished French jurisconsult and the author of many legal works, has recently published an important study entitled *La nationalité dans les principaux États du Globe* (Paris: Pedone, 1909, xvi, 227 pp.) in which he explains the law of fifty-one states in regard to the acquisition, loss and recovery of citizenship. He begins with a concise résumé of the different principles governing nationality of origin, naturalization and expatriation, and then considers in turn the law and practice of all the principal states in their alphabetical order. Altogether M. Lehr's work constitutes an important contribution to the literature of the subject.

Le Droit d'Association en Angleterre by Henry Barrault (Paris: Larose et Tenin, 1908, pp. 309) is a study of the law of association in England. The author considers the historical evolution of the right of assembly, in its different applications: economic association, religious association and political association. He dwells upon the restrictions and limitations under which the right is exercised in England, and compares the English law and practice with that of the continent.

The French foreign office has published a blue book, entitled *Conférence Navale de Londres*, 1908–1909 (Paris: Imprimerie Nationale, 1909)

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which contains the diplomatic documents relative to the naval conference which was in session at London from December 4, 1908 to February 26, 1909; a review of the steps leading up to the conference; and the text of the declaration adopted, each article of which is accompanied by a commentary designed to elucidate its meaning.

Dr. Ernest Lémonon, whose excellent book on the two Hague Conferences was reviewed in a recent number of the AMERICAN POLITICAL SCIENCE REVIEW, has recently contributed several valuable articles on the work of the London Naval Conference of 1908–1909, to the *Revue de Droit International et de Legislation Comparée*. M. Ernest Nys is also contributing a series of articles to the same periodical on The United States and the Law of Nations; and Thomas Willing Balch of Philadelphia is writing another series on the fishery dispute between the United States and Great Britain.

The last number of the *Zeitschrift für Völkerrecht und Bundesstaatsrecht* (Band III, Heft 5) contains two valuable contributions by American writers. One is by Prof. Paul S. Reinsch and is entitled *Die Internationale Konferenz und das Bureau der Amerikanischen Republiken*; and the other, by Judge Simeon E. Baldwin, is entitled *The Exchange of Notes in 1908 Between Japan and the United States*.

The third volume of Dr. Georg von Mayr's *Statistik und Gesellschaftslehre*—one of the most valuable works of its kind published in any language—has appeared from Laupp's Verlag (Tübingen, 1909). It is entitled *Sozialstatistik* and deals with statistics relating to mortality, education, industry and politics.

Das Parlamentarische Wahlrecht in Deutschland by Dr. G. von Below (Berlin: Curtius, 1909, pp. VII, 170) is a little book which is devoted mainly to combating the principle of direct equal suffrage in Germany. The principle of direct suffrage which already applies to the election of members of the Reichstag has not, he maintains, worked out successfully in practice. As evidence of this he asserts that a majority of the members elected to the Reichstag between 1887 and 1907 were in reality chosen by a minority of the electors. The experience with equal and direct suffrage in the south German states has, he says, produced no better results. In the third part of his work he defends the Prussian three class system and opposes the introduction of the imperial system into the Prussian constitution.

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The papers prepared on the occasion of the recent celebration of Prof. Paul Laband's fiftieth anniversary of his promotion to the doctorate have been published in two volumes by J. C. B. Mohr of Tübingen under the title *Staatsrechtliche Abhandlungen* (pp. viii; 614, iv, 514). There are altogether twenty contributions of which three relate to the subject of international law and seventeen to constitutional and administrative law. Among the best of these are Prof. Otto Mayer's *Die Juristische Person und ihre Verwertbarkeit im öffentlichen Recht* and Hugo Preuss's *Selbstverwaltung, Gemeinde, Staat und Souveraintät.* Other contributions are made by such distinguished scholars as Heinrich Triepel, Georg Jellenik, Robert Piloty, Gustav Anschütz, Wilhelm von Calker, Fritz Stier-Somlo, Karl Lamp, Heinrich Rosin, Eduard Rosenthal, Fritz Fleiner, Philipp Zorn and Felix Störk.

Dr. Ernst Mayer, professor of criminal law and legal philosophy in the University of Strassburg, and the author of excellent constitutional histories of France and Germany from the ninth to the fourteenth centuries has lately published an admirable constitutional history of Italy in two volumes under the title *Italianische Verfassungsgeschichte von der Gothenzeit bis zur Zunftherrschaft* (Leipzig: Deichert, 1909, pp. xlviii, 464; xi, 598). It is divided into four books, the first of which is devoted to a study of the population; the second, to a study of the national resources, army and the public service; the third, to the development of the constitution; and the fourth, to municipal organization.

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BOOK REVIEWS

The Evolution of Modern Germany. By WILLIAM HARBUTT DAWSON. (London: T. Fisher Unwin; New York: Scribner's. 1909. Pp. xvi, 503.)

Treating of economic facts and factors, this book is nevertheless of considerable interest to students of politics, in that it attempts to furnish a reason for recent movements in German political life, based on a more rational foundation than mere "jingoism" and the noise of many "rooters." Ironic in tone and temper, the work of Mr. Dawson, himself an Englishman, should furnish a sedative for the hysteria of many of his countrymen, who regard every healthy move on the part of Germany as a threat against British peace and quiet, and hence part of a deep, dark, devilish design.

Mr. Dawson has the advantage of view-point. He is looking at things from the inside. His long residence within the German Empire and his familiarity with things German have enabled him to appreciate the situation in which that country finds itself and thus to avoid a lop-sided judgment. While his book contains, perhaps, little that is new, it is clearly put, eminently sane in its conclusions, and his statements are supported by a wealth of statistics.

For the student of politics the main interest of Mr. Dawson's volume centers in the seventeenth chapter, to which the rest of the book is, in a way, incidental. The thesis which Mr. Dawson aims to establish may be roughly stated thus: The old dictum of Bismarck, to the effect that Germany is a "satiated" state and needs no further expansion, is exploded. "The populations of Western Europe are already outgrowing their geographical and economic limits, and it is recognized that their capacity for expansion depends on the opening up of new and receptive markets in other parts of the world, in which manufactures may be exchanged for food,—the products of industry for the produce of the soil. These considerations, amongst others, have widened the old formulas and transformed European policy into world-policy, and in accepting the new order of ideas Germany is simply pursuing its inevitable destiny."

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The increase of population and the stress of economic conditions have been changing Germany from an agricultural into an industrial State. The main and vital question, so far as German foreign policy is concerned, is the creation and maintenance of markets abroad, especially in transoceanic countries. In seeking colonies, Germany is actuated by economic rather than political motives. To quote Paulsen "Germany has participated in the policy of expansion out of Europe,—at first modestly, of late with growing decision. The enormous increase of its industrial production and its trade compelled it to take measures for the extension and security of its over-sea interests. In the course of a single generation, Germany has worked its way into the second position in Europe. . . . . The necessity of protecting this position by a strong naval force has, during the recent decades, become a dominant factor in the political thought of the nations."

Mr. Dawson is not disturbed by the marked growth of German sentiment, even of German enthusiasm, in naval matters. He seems to view this development of interest in the sea as an evidence of a healthy and natural vigor, and he cautions his countrymen against a false and hysterical attitude toward this normal expansion on the part of the German people. Increased power does not of necessity mean increased pugnacity.

"The emperor has said in perfect good faith that 'with every new battleship another pledge for peace on earth is given.' Probably most Englishmen are quite prepared to believe that the strong German navy of the future will prove as pacific as the strong army has proved for the last thirty-seven years, yet they naturally think that Germany might have been content to keep the peace of Europe with its big battalions as before, leaving England to offer its iron clads as hostages in the same great cause. On the other hand, Germany advances the 'right to maintain the navy and the army which it requires for the maintenance of its interests.' Its position was officially restated by Prince Bülow in the Reichstag on March 24, 1908, in the following words: 'We do not dispute England's right to draw up its naval program in accordance with the standard which its responsible statesmen consider necessary for the maintenance of British world-supremacy, and similarly it cannot be taken amiss that we should build those ships which we require, nor can we be blamed for desiring that our program of naval construction should not be represented as a challenge to England.' That is the position which Germany takes on this question, and no good purpose can be served by either ignoring it or converting it into a

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grievance. For England, the country principally affected, the only safe and the only possible attitude lies in the calm, dispassionate, and ungrudging recognition of Germany's right to follow the policy which it thinks right and necessary."

Other chapters in the book which are of interest to the student of politics treat such subjects as The New Colonial Era, Centripetal and Centrifugal Influences, The Outlook of Socialism and The Polish Question.

Mr. Dawson's volume is a sane, scholarly treatment of a theme of genuine interest to all who are watching the great forces at work in world-politics.

B. E. H.

The Constitutional History of England. By Frederick William Maitland. (New York: G. P. Putnam's Sons. 1908. Pp. xxxii, 459.)

Considering the amount of time devoted to the constitutional history of England in our colleges and universities it is a remarkable fact that no satisfactory work exists in moderate compass available as a text-book or reading-book for students. The older essays of Fischel, Fielden, Creasy, Freeman, and Boutmy are brief sketches in large part antequated. The longer works of Hallam and Taswell-Langmead, though still useful, are far from judicial in their comments and have in them too much of the history and too little of the constitution to meet present-day demands. The work of Medley is scholarly but is based on a topical plan that renders it almost useless for class purposes, while its conciseness and the formality of its style render it of little value to the general reader. No single book exists that covers the whole of English constitutional history, showing not only what the constitution is but how it came about and treating constitutional crises with scientific regard for both sides of the case. A history written in the spirit of Holdsworth's work on English law, but in more moderate compass, would be a great desideratum.

Professor Maitland's book partly fills the gap. It was written twenty years ago as a course of lectures in the University of Cambridge and without thought of publication. It was never revised or brought up to date and might well seem at first sight to be antequated before it was published. Such, however, is not the case and the work is likely

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to stand for many years to come as the best introduction to the subject that we have. The reasons for this statement may be briefly stated. More than any other single writer, Maitland himself has been responsible for the reconstruction which has taken place in recent years of the legal and constitutional history of the period to 1307. The first third of his book is, therefore, largely an anticipation of the changes to come, and instead of being a compilation based on work already printed is in fact a program for the future based on original investigation already under way. Even one familiar with Maitland's later work will find profit in these pages. In the second place the work avoids controversial questions throughout, Its treatment is analytical and descriptive and not evolutionary, and it makes no attempt to study processes of change and development. It deals only with the finished product and ignores causes and consequences. In the third place the work is in largest part an exposition of printed texts, chiefly the statutes. Maitland had the statutes of England at his fingers' ends from first to last and could quote them impeccably. His skill in utilizing the knowledge thus possessed is one of the marked characteristics of this history. No previous writer has ever marshalled such a mass of data in so coherent and lucid a fashion, and so original and informing a commentary can never go out of date.

Maitland's history is not entirely satisfactory, but its defects are inherent in its plan. For example, nothing is said of so important a period as the years from 1641 to 1660, simply because no additions were made during those years to the British system of government. Maitland pays no attention to the conditions under which public opinion was shaped and political theories developed. Consequently his work lacks atmosphere. Furthermore it is often taken up with an excessive mass of details that can hardly have been read to an audience of note-takers, and perhaps for a work on constitutional history we hear almost too much about English law. But it must be remembered that these lectures were not written to be printed and that it is doubtful whether they were delivered to students exactly as they appear here. Maitland was always an interesting lecturer and never more delightful than when speaking ex tempore. Some of these pages of details may have been mere aids to memory and guides to thought and not the real substance of the lecture. An examination of the original manuscripts tends to confirm this view. I do not doubt but that the qualities lacking in the printed page are supplied by the lecturer in the actual delivery. If this be true then we may regret the more deeply

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that Maitland has never been able to rewrite some of the sections of this book and to give to them that graceful finish and dramatic touch which has made so many of his later writings models of English prose.

CHARLES M. ANDREWS.

The Reform of the House of Lords. By WILLIAM SHARP MCKECHNIE. (Glasgow: James MacLehose and Sons. 1909. Pp. 136.)

The chief function of the house of lords, it is admitted, should be to interpret the will of the people, not to oppose it. Whether it can be said satisfactorily to perform this function is made a matter of doubt by the fact that, whatever the political complexion of the commons, the lords has for many years been dominantly conservative. In a debate in June, 1907, Mr. Balfour ironically observed that "It is a singular thing, when you come to reflect, that the representative system should only hold good when one party is in office, and should break down to such an extent that the non-elective house must be called in to express the mind of the country whenever it lapses into liberalism." Professor McKechnie, within a comparatively small compass, has given a most excellent orientation of the problem of so altering the composition or powers of the lords that it may be rendered either impotent to defeat the desires of the people as truly voiced in the commons, or qualified to assist that body in expressing the matured and reasoned popular will as distinguished from an assumed or ill-considered political opinion of the people. As a basis for criticism the composition and powers of the lords in the relation to the commons are discussed and a comparison of them with foreign upper chambers made. The various proposals and schemes of reconciliation, including that of the select committees of December, 1908, are clearly analyzed, their several merits and defects being impartially stated. In the last chapter the author outlines the general features of what, in his judgment, would furnish the most satisfactory solution of the problem. The work supplements the discussion of the same subject in Lowell's *Government of England.*

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The King's Customs; An Account of Maritime Revenue and Contraband Traffic in England, Scotland, and Ireland, from the Earliest Times to the Year 1800. By Henry Atton and Henry Hurst Holland, with a preface by F. S. Parry. (New York: E. P. Dutton and Company. 1908. Pp. 489.)

This work is neither a scholar's book nor a departmental record. It is designed as a popular record of the customs and has been prepared as a private venture by two members of the custom office staff of London, who have, as the preface tells us, assorted the results of research in correct sequence and then related them with due conciseness, moderation, and simplicity. As to the research the book bears ample evidence of persistent and prolonged labor. The records of the customs are scarce and scattered; many were destroyed in 1666 and more in the fire of 1814. Such as remain are not in any one place, but must be searched for all the way from the British Museum to Lower Thames Street, stopping at Whitehall and making a prolonged visit to Chancery Lane. To gather the material upon which this book is based was a difficult and arduous task and the authors deserve full credit for their zeal. The historian will gladly express his obligation to them for blazing a path through a little trodden wilderness. They have collected a great amount of new information, have printed tables and documents that are pertinent and valuable, and they have given hundreds of illustrative incidents throwing light on customs' practices. Their lists of authorities at the end of each chapter are useful guides to the statutes, records, rolls, state papers, and general authorities, though very unwisely, we think, the authors have failed to give anywhere exact references to their sources of information and so have impaired seriously the chief value of the book for scholars, as a work of reference.

As a history of the king's customs the work is badly done. The authors have trespassed upon a field which they are quite incompetent to exploit. They have gathered material but have not digested it and the text is little more than a collection of notes, without other than a chronological unity, in no way moulded into a continuous and well-proportioned whole. The authors do not understand the significance of their own material; they have no adequate knowledge of English constitutional history; and no understanding of the place of the customs in the political and financial history of the kingdom. Consequently they have no explanations to offer, no appreciation of the idea underlying the fact, no sense of the relative importance of the different aspects

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of their subject. The story of a tide waiter's grievances plays as prominent a part in their pages as does the parliamentary controversy with the king over tonnage and poundage, and the Bates' case is dismissed in fewer lines than are needed for any one of the dozens of examples of smuggling exploits. All that relates to the period before 1500 is practically of no value because the authors have no comprehension of the character of mediæval institutions. For the later period their grasp is firmer, but even for that period the treatment is without order or unity, and the reader will search in vain for a continuous account of any particular subject. The book throws no light on plantation customs, though it occasionally mentions them, and some important aspects, such as the work of the American board of customs commissioners are passed by without a word, though in this particular instance the commission of the board is printed in the appendix.

It is difficult to see who will profit from this book. The scholar will rarely use it, the official, never. The public will hardly find interest in pages where the paragraphs follow each other like the entries in a note book. The style possesses no distinction; it is frequently undignified and colloquial and is marred by words that are not usually found in a serious work. The public is not generally deceived by the catchpenny device here employed of poking fun at historical characters.

CHARLES M. ANDREWS.

Modern Constitutions. By WALTER F. DODD. (Chicago: The University of Chicago Press. 1909. Two volumes. Pp. xxiii, 351; xiv, 334.)

These volumes present in excellent English translation the fundamental laws of twenty-two of the most important states of the world. The collection includes the constitutions of practically all the European states, those of Mexico, Argentina, Chile and Brazil in North America, and those of Japan and the Australian Commonwealth in the Orient. The primary aim of the collection is to furnish texts for use in college courses in comparative constitutional law. The hope is expressed, however, that the work may be found of value to lawyers and to public men. Each constitution contains all amendments in force at the end of the year 1906 and in the case of Austria the new changes of January, 1907, are included. Notes are also added concern-

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ing the more recent suffrage amendments to the constitutions of Norway, Spain, Sweden and Russia. The text of each constitution except that of the United States is preceded by a brief historical sketch and also a critical bibliographical list. There is also a brief general bibliography of the most important historical works, constitutional compilations and general treatises on comparative constitutional law. In general it may be said that Dr. Dodd has performed his task in a scholarly manner. Great care has evidently been taken to secure in every case the latest and correct texts, and to provide accurate translations of the technical terms employed. This collection, with that of the Latin-American constitutions recently prepared by Dr. Radrigues and published by the International Bureau of American Republics, places within convenient reach of students most of the constitutions now in force—at least most of those that are likely to be studied.

Index Analysis of the Federal Statutes, Together with a Table of Repeals and Amendments. By GEORGE WINFIELD SCOTT, Ph.D., LL.B. and MIDDLETON G. BEAMAN, A.B., LL.B. Volume i. (1873–1907): General and Permanent Law in the Revised Statutes of 1873 and the Statutes at Large 1873–1907 (vols. 18–34). (Washington: Government Printing Office. 1908.)

It is a hopeful sign that the making of this index, instead of being treated, as is usually done, as mere clerical work, was committed to trained and expert hands. The working out of a well-ordered plan of headings and subheadings involves a systematic analysis of the whole body of tatutory material. Such an index as this may therefore well be looked upon as a first step in the scientific treatment of legislation. The connection of work of this kind with the problem of the drafting of statutes is pointed out by the authors of the index when they say: "If our legislators are to have the assistance of statute-law specialists—draftsmen—they must see to it that a requisite technical experience is provided with which to train them. Perhaps, the most economical and, at the same time, certain way to provide such a training is to authorize the preparation of guides to the various sorts of statute-law materials and to require that these guides should be made by those who would train themselves as draftsmen. The British parliament, whose recent statutes are models of form and phrase, found that the preparation of such legislative tools accomplished a twofold result: first, it made readily

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accessible the information necessary to legislative work; second, it furnished the lawyers who did the indexing, digesting, and re ising, with that technical experience in statute law which is indispensable to the training of competent draftsmen. Today, in England, the technical work connected in different ways with the drafting and publishing of the statutes of parliament is performed by or under the direct on of three or four lawyers who are devoting their entire time to this highly specialized service."

It is impossible to form a judgment of the completeness or accuracy of an index except by long-continued tests, but a relatively brief period of use may give a fair idea of the general economy and convenience of its arrangement, and the impression produced by this volume is extremely favorable.

The elaborate system of headings, subheadings, and cross-references and its use, is explained by the authors in a table of directions which is interspersed through the volume at irregular but frequent intervals. The index of the popular names of statutes which is placed at the end of the volume will be found a special convenience.

The authors are careful to warn the user against certain shortcomings which it was found impossible to provide against.

Thus, if for any purpose it is desired to make a complete list of all powers and duties of an office, the index will not be a complete guide, for where the statute has not named the officer who is to execute its provisions, the index omits reference to any officer, though it may be clear within whose jurisdiction the administration or enforcement of the act must fall. In adopting this course the authors were controlled by the principle that they should carefully avoid anything in the nature of a construction of statutes. It might have been the privilege of private indexers to be less scrupulous.

For the same reason the elaborate table of repeals and amendments at the end of the volume lays no claim to completeness; for implied repeals and amendments are entirely matter of construction, and it would require legislative authority to determine with certainty where they occur.

It is very much to be hoped that the work will be continued. It is proposed that a second volume, when published, shall cover the statutes of temporary local and personal character. The student of legislative history would prefer an index of the general legislation of the period from 1845 to 1873 for which at present we have only the indices of the separate volumes of the statutes at large.

The plan for any further index has now been worked out, and for this

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Messrs. Scott and Beaman have entitled themselves to the gratitude of all those who have occasion to consult federal statutes.

E. F.

The Development of the State: Its Governmental Organization and Its Activities. By JAMES QUAYLE DEALEY. (New York: Silver, Burdett and Company. 1909. Pp. 343.)

"The writer has endeavored to show that the state develops in accord with definite laws and principles, and that these are largely determined by the conditions of economic and intellectual life. Progress comes therefore by purposive modification of such conditions through a governmental policy based on scientific knowledge." With this aim, Professor Dealey has written an uncommon book, strong in argument, thorough in scholarship, and inspiring both to the student and the citizen. Its basis lies in applied sociology. The fact is never lost sight of that the state is only one of the factors of civilization. It is, however, a dominant factor because it is able to utilize all other factors and bring them into unity of purpose, the progress of mankind.

The book consists of four parts, the first of which deals with general social development and the stages in the development of the state. The author does not support any one theory of the origin of the state, but attempts to find the place of each in the historical development from the horde to the organized society of today Part 2 deals with sovereignty as the distinguishing characteristic of the state. Sovereignty is defined as the collective term for whatever power is possessed by the state. This identifies sovereignty with the so-called essential powers of police, taxation and eminent domain; but by the police power is meant the power to do anything needful for the safety and welfare of the nation, including the war power. Such an inclusive definition of the police power is not in accord with recent scientific thought, but is supported by judicial decisions in the United States. As elements in the exercise of sovereign powers are discussed economic regulation of ownership in land, commerce, food supplies, colonization and manufacturing. The relation of the state to the family and to the church is treated historically and sociologically.

Part 3 describes the organization of the modern state. The functions of government fall into five classes, viz., the deliberative, legislative,

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executive, administrative and judicial. To the usual three departments for the performance of these functions, Professor Dealey is inclined to add two others the *electorate*, and the *legal sovereign*. The latter he defines as "that person or body of persons having the legal right to make. revise or amend the constitution of the state." The legal sovereign is typified by the constitutional convention. The electorate is "that body of citizens legally authorized to participate in the exercise of some of the sovereign powers of the state." The electorate through suffrage exercises the executive power of appointment; through the initiative and referendum, the legislative power; and through jury service the judicial power. By the use of the above two terms, confusion as to the meaning and location of sovereignty is avoided. The presentation of the whole subject of governmental functions and departments is clear and suggestive. The tendency to differentiate an administrative from the executive department is noticed, as also, in the United States, the possibility that ultimately the federal supreme court will devote itself only to interpretations of the constitution.

Part 4 treats of "law and citizenship." The development of law from custom, and its multiplication into complex systems by intercourse, by the growth of private property and social classes, and by formal legislation are traced. Public and private law, civil and criminal law, the ordinance, administrative law, constitutional law, the statute, equity, canon law and international law are explained in logical order. A chapter on "rights and political parties" shows how ethical or so-called natural rights become legal rights recognized by the state, through demands of the people. From differences of opinion on what should be expected of the state, modern political parties have arisen and have found their highest development in democracies. Political parties cannot rise above the level of intrigue without a wide diffusion of education and intelligence, and this end has been fostered in democracies through a proper emphasis on both the rights and duties of citizenship. The whole book leads up to a discussion of modern democracy as the highest type of government yet developed. "Democracy is not merely a political system; it is a condition for human de elopment, an ideal of social life and a philosophic attitude of mind in regard to the larger interests of humanity as a whole. In its larger and truer aspects it implies the possibility of the attainment of higher civilization. In its political aspect it is merely the means whereby men attain real democracy." The saner and more humane international policy of today may be traced directly to the rise of democratic ideals.

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Although this book is clear and brief, confining itself to essential principles and facts, it is by no means an elementary treatise. The subject as a whole is treated very broadly, presupposing a considerable knowledge of social science, economics and political theory. Its outlook is to society as a whole advancing by means of democratic state organization.

FREDERICK C. HICKS.

New Hampshire as a Royal Province. By WILLIAM HENRY FRY, Ph.D. (New York: Columbia University Studies in History, Economics and Public Law. 1908. Volume xxix, no. 2. Pp. 526.)

This study is a careful and scholarly account of the provincial history of a colony that, playing a less conspicuous part in early American history than that of some of her neighbors, is frequently overlooked or only casually referred to. The author has made a careful investigation into original sources, to which he gives full and specific references in footnotes; and, as a whole, the narative is clear and well written.

The introductory chapter gives a fairly extensive historical summary of the colony from the original grants to its establishment as a royal province. The factional struggles and the contests over titles to land stand out as the chief events. In the main portion of the work, that discussing New Hampshire as a royal province from 1679 to the American Revolution, the author follows the topical rather than the chronological method. The executive, the legislature, the land system, finance, justice and military affairs are discussed in turn. While this leads to a certain amount of repetition in viewing the same events from different standpoints, the general effect is good. By this method, the clearness secured in developing the various institutions probably more than compensates for the lack of connected narrative.

To the student of political science, the study is especially interesting since it shows more clearly than usual the steps by which the governor's powers, extensive in the royal commissions, were gradually limited in practice, or taken over by the assembly. For this process, the author considers the intercolonial and Indian wars, coupled with the assembly's control of the purse, mainly responsible. The development of internal legislative organization—the bicameral system, the speaker, rules, committees, etc.—is also excellently portrayed. The disputes over land grants and boundaries, and the disastrous experiments in finance are typical of the American colonial period.

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The last chapter, on military affairs, is not quite up to the standard of the remainder of the work; its arrangement and condensation making it somewhat of an anti-climax to an otherwise excellent monograph. The Appendix contains lists of the royal commissions issued, of the speakers of the house, and of the assemblies. The chief sources referred to are the Provincial Papers and the New Hampshire State Papers.

The author, in general, limits himself to statements of fact, and draws few conclusions. A few exceptions are found, for instance, on p. 87, where, discussing the union of New Hampshire and Massachusetts under the same governor, he states, "Although the personal union of the two provinces was undoubtedly a distinct advantage when considered from a military standpoint, it was in many respects detrimental to the interests of New Hampshire and gave rise at times to considerable friction and ill-feeling." Again, on p. 208, after tracing the expanding powers of the lower house, he says, "It is highly probable that the lower house would have made still further inroads upon the various powers of the governor and council, had not the Revolution broken out and swept away the royal government."

RAYMOND GARFIELD GETTELL.

Legislative and Judicial History of the Fifteenth Amendment. By JOHN MABRY MATHEWS. (Baltimore: The Johns Hopkins Press. 1909. Pp. 126.)

Mr. Mathews has written an accurate, well-balanced study that is remarkably free from errors, and also treats of a controversial subject with fine self-control and little show of partisan judgment. The monograph traces the formation of the fifteenth amendment and its passage through congress, the interpretation put upon it by that body, the ratification by the states, enforcement legislation, and judicial interpretation, with the status of the last at the present time.

Says the author: "The groups of men favoring a suffrage amendment of some kind were . . . . the politicians, who aimed at congressional control over southern elections; the nationalists, who desired a strong central government, and the universal suffragists, or humanitarians, as they may be called, who were laboring to base the enjoyment of political rights upon no distinction less comprehensive than humanity itself. Over against all three of these; and opposed to a suffrage amendment of any kind, were the local autonomists, proud of local tradition

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and jealous of national interference in local concerns" (p. 22). He states further a fact now thoroughly appreciated by students of the reconstruction period—that the "politician was the initiator and real engineer of the movement, and without him it is probable that nothing could have been done" (p. 22). The political supremacy of the republican party must be secured at all hazards. The justification of the act of the politician is another matter.

A remarkable fact that the reader of the monograph will note is that while opposition to the amendment both in congress and in the country at large centered around the two heads of opposition to centralization of power in the national government and the negro's unfitness to vote, yet the former was urged almost to the entire exclusion of the latter. We of today, in the light of forty years' subsequent h story, are almost tempted to overlook entirely the question of aggrandizement of the national government, so much more occupied are we with the vital question of the proper basis for the franchise in every state of the Union.

Congress has attempted enforcement legislation, but "the net result . . . . . is that the bulk [of it] . . . . . has been rendered inoperative, and what still remains in force possesses little vitality" (p. 96). As a matter of fact, our national legislative body seems inclined to regard the matter as one for judicial settlement. On the other hand the courts have decided (1) that "the amendment does not confer the right to vote upon any one, and that the discrimination prohibited by the amendment is that which is due solely to race, etc." (pp. 107, 108),[1] (2) that it "relates solely to action by the United States or by any state and does not contemplate wrongful individual acts" (p. 113).[2] Mr. Mathews also notes the apparent desire of the courts to shift the duty of redressing wrongs under the fifteenth amendment to the political department of the government (p. 125). His conclusion is: "The real reason behind the attitude of both congress and the courts is the apathetic tone of public opinion, which is the final arbiter of the question. In the technical sense, the amendment is still a part of the supreme law of the land. But as a phenomenon of the social consciousness, a rule of conduct, no matter how authoritatively promulgated by the nation, if not supported by the force of public opinion, is already in process of repeal" (p. 126).

WILLIAM STARR MYERS.

[1]United States *vs.* Reese, 92 U. S., 214.
[2]Justice Brewer in James *vs.* Bowman, 190 U. S., 127.

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La Présidence des Assemblées Politiques. Par HENRY RIPERT, Auditeur au Conseil d'État. Préface de Paul Deschanel. (Paris: Arthur Rousseau. 1908. Pp. xxiii, 511.

M. Ripert has succeeded in producing an exceedingly clear and interesting and, we believe, an accurate sketch of the presiding officers of various national legislative assemblies. The work was awarded the Prix Rossi in the year 1907, by the Faculté de Droit de Paris.

In Book I the author considers from both the historical and theoretical standpoints the non-elective presiding officers of "lower" houses of parliament (the French "corps législatif" under the First and Second Empires and the chamber of deputies under the Restoration, and the popular assemblies of Sweden, Holland and Portugal), those of "upper" chambers (the French senate, the English house of lords, the American senate and the German bundesrath) and in Book II he treats in the same manner of presiding officers who are elected. This latter part is far more important as a matter of course, and the treatment is much more complete and extended, centering around the speaker of the English house of commons, the speaker of the American house of representatives and the presidents of the French senate and chamber of deputies. A few supplementary pages describe the kindred officials in Belgium, Italy, Austria-Hungary and the German Reichstag.

Of particular interest is his sketch of the history of the growing power and influence of the speaker of the house of representatives, from its beginning in 1789 to its culmination in the persons of Thomas B. Reed and Joseph G. Cannon. The author interprets this rightly as the natural attempt of the people to provide a principle of unity in a government "based entirely . . . . . upon the principle of the absolute separation of the executive and legislative powers" (p. 248), that is to say, it is in reality "a reaction against the dispersion of power and weakening of authority intended and magnified by the constitution . . . . . A chief was needed and the speaker alone, by his prerogatives, has been able to become that chief" (p. 251). M. Ripert modifies this statement by noting the recent growth of the concurrent and competing power of the executive, as instanced by Cleveland, McKinley and Roosevelt who "raised their office by their personal qualities, and gave to it a reputation (un éclat) superior to that of the speaker." Furthermore, it is necessary "to take account of the tendency which seems to impel the United States toward an active foreign policy, in which the executive power will always hold the first place. But the office of speaker has

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within it a peculiar power which assures to it the duration of its influence . . . . If the president governs through his ministers, the speaker directs or at least controls through his committees, and in a conflict between the two, the last word will belong probably to the one who has control" (p. 251). Dr. Woodrow Wilson stated in his *Congressional Government* some years ago that the government of the United States is in reality a government by the committees of congress, a congressional government of which the speaker is chief. M. Ripert denies this, saying —"This is no longer true today since the p esidents of the republic have rediscovered the secret of themselves guiding [the affairs] of the country" (p. 270).

Henry Clay was the first to grasp the idea of the possible influence of the office of speaker and the power to which it might attain. Says M. Ripert: "For the Americans, the best speakers are those who approach most closely the ideal type of the office which—with his activity, his energy, and also his arbitrariness—Henry Clay set forth with complete success at the beginning of the nineteenth century. It is according to his type that the most celebrated speakers have sought to model their administrations and, since the civil war, several of them have closely approached it." Colfax, Blaine, Carlisle and Reed are of this number (p. 297).

Lack of space forbids further quotation, but it should be mentioned that the author considers the speaker of the English house of commons as the ideal of a non-partisan presiding officer, partaking more of the character of a magistrate or judge than of a political leader (pp. 10, 223 234), and states that the president of the French chamber of deputies occupies a position midway between those of the American and English type, i. e., he is a party man, dependent upon party success (p. 444), but temporarily invested with the office and duties of a magistrate (p. 421).

One can merely note the keen and effective characterization or estimate of such men of historic importance as Dupin, Morny, Gambetta, Floquet (who is, says the author, the ideal type of a contemporary French presiding officer, p. 433), Deschanel, etc. The summary of political conditions in European parliaments at various periods of the nineteenth century is clear and telling.

It has been said in a tone of semi-humorous deprecation that few Frenchmen, whatever may be the extent of their learning, are able to quote English correctly. M. Ripert is no exception to the rule. Not only does he speak of the "internal taxe on tobacco" (p. 308) and rules "fremed" by the speaker (p. 191 note), but when describing on

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page 238 the method of "putting the questions" and counting the votes used by the speaker of the house of commons, he says: "le speaker les compte et déclare 'Je pense que les oui l'emportent (the ayes *ave et*) ou que les non l'emportent' (the noes *ave et*)," thus with charming naïveté attributing to that august personage the use of a hybrid Cockney dialect! The author also sh ws signs of provincial prejudice by quoting with seeming approval the remark of another French writer, M. de Franqueville, who says that at times the English house of commons is so careless of good order that "l'illustreenciente présente souvent l'aspect d'une assemblée de *yankees* beaucoup plus que celui d'une réunion de gentlemen!" (p. 199).

In conclusion it should be said that the work fills a longfelt want by furnish ng in a clear and scho arly form a comprehensive survey of a class of officials of vi al importance in the political world, whose growing influence is more and more worthy of serious attention.

WILLIAM STARR MYERS.

Railroad Promotion and Capitalization. By F. A. CLEVELAND and F. W. POWELL (New York: Longmans, Green and Company, 1909. Pp. xiv, 368.)

The reader who by the title of this book may be led to expect a dissertation on present day "high finance" will not find his expectation realized, for only in the final chapter of fifteen pages is reference to the methods of the underwriting syndicates that were first employed in this country in 1871 and in England at about the same time. What the reader will find is a setting forth of the physical, political and commercial conditions that caused increase in the means of transportation to be the most pressing need of the newly founded United States. He will find an outline of the manner in which river traffic was developed, wagon routes extended into the interior, and energy turned to the construction of canals. Then the beginnings of the railroads are traced, the popular acceptance slow at first, but that as the possibilities of transportation by rail received demonstration spread with a feverish onrush involving states, counties, and municipalities in the speculative mania that culminated in the panic of 1837, leaving states financially stranded, banks suspended, business prostrate and property depreciated.

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The assumption of the state debts by the federal government was effectively opposed; the people of the older states had enough of state enterprise. Recourse was had to the private corporation through which our "unparalleled transportation facilities have been developed." Then appeared the promoter whose energy necessarily was based upon the investment principle that "one with capital will not withdraw it from a field in which it is already profitably occupied and which is well understood, unless some bonus or extraordinary inducement is offered." To offer such extraordinary inducement was the province of the promotor. Opportunity was given far-seeing men to perceive the channels that traffic would take, and to make that exposition of the trend of the future that would attract capital to the enterprise. Opportunity was also given for the visionary and the knave to play upon the fancy of the credulous. To attain his ends the promotor oftentimes scrupled not at corruption in obtaining charters, at the spoliation of citizens and at the under-handed misappropriation of funds. There was no outcry against even the worst of these men, however, until they had extended the foundations of our railroad system. They were enterprising citizens under the conditions of the time and, often at the expense of bankruptcy to themselves, did much to organize the forces, "which have given to America the best equipped transportation service in the world."

Four chapters are devoted to the various forms in which state and local subsidies were given to private corporations leading to the reaction which resulted in legislation that was general throughout the states prohibiting such aid. A chapter is given to the aid extended to private companies by the nation, usually in the form of land grants. This discussion is summed up by the statements "There is no doubt that the benefits received by the railroads from land grants have been smaller than was expected when they were so eagerly sought. . . . . the fact that some railroads have been constructed along similar routes and under identical conditions without the aid of grants points to the conclusion that the system of land subsidies was not an indispensable accompaniment of railroad construction in the West. When the grants have proved of service, it has generally been not at a time when their aid was most urgently needed, but after the initial stage of development had been passed by means of loans of public credit and reinvestment of private capital. . . . . On the other side it must be said that land grants did contribute very largely toward the rapid upbuilding of the West, and that far-reaching political and economic changes

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have been brought about in consequence. It may also be admitted that the system of railroad land grants was as free from abuse as any of the methods adopted by congress for the disposition of its lands prior to the enactment of the homestead law."

This book is the outcome of eight years' research on the part of its authors, who have made an exhaustive examination of the early periodicals and documents and prepared a complete bibliography which is embodied in the volume. The text is clear, painstaking and fortified with reference to authority at every step. The volume is a most valuable contribution to that sane and happily increasing literature from which may be gained an accurate understanding of the conditions under which the railroad system of the United States has grown, conditions in which the fluctuating mental attitude of the body politic has been a foremost factor, at times stimulating railroad development to excess and at times hampering that development with ill-conceived restrictions.

LOGAN J. MCPHERSON.

Principles of Politics. By JEREMIAH W. JENKS. (New York: Columbia University Press. 1909. Pp. xviii, 187.)

This work is comprised of a series of lectures given originally at Columbia University. The lectures now appear in an attractive volume which is sure to prove helpful and interesting to the beginner in the study of politics as well as suggestive to the trained student. As indicated in the preface, the aim of the author has been "to bring into closer touch than is usual the work of the scholar and the practical man of affairs" in the consideration of the problems of politics. Professor Jenks is a well-recognized authority in this field. His writings which always show an intimate knowledge of the workings of government, gathered in a long and varied experience in public affairs, are invariably read with a great deal of interest. In line with the tendency of recent years the purpose of the volume is to bring the subject of politics within the reach of the average citizen and closer to the everyday facts of life.

The chapters deal with the nature of the state and government, political motives, suffrage, political parties, representation, legislation, administration, the judiciary, constitutions and international relations. These subjects are treated very briefly but with a degree of fairness and precision seldom to be found in the older works on politics. The lan-

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guage is so simple and clear as to be readily comprehended by American citizens who have neither the opportunity nor the inclination to read heavier treatises.

The wholesome attitude and the illuminating suggestions of Professor Jenks can only be appreciated by following his discussions on the motives which guide men in their political conduct, the force of mental and moral inertia and its result upon public life, the advisability of woman's suffrage, the methods of securing officials, the ultimate effect of courts declaring laws unconstitutional, the forces and influences in diplomacy and finally the tendency toward international peace and world federation. Although the convictions of the author are frequently apparent no conclusions are pressed upon the reader. It is rather the purpose to present different points of view with due fairness to all parties concerned.

This attitude of fairness leads occasionally to the advocacy of political methods and practices merely because they are acceptable to a majority of the people, regardless of the ultimate effects upon society. To those holding radical views it may seem that the author is too much inclined to uphold existing conditions. Many doubtless would take issue with the view that political institutions ought not to be lightly changed because "the presumption is that the system in existence is fairly well suited to the needs of the people." In the main, however, this cautious, rather conservative attitude is commendable.

A few of the principles upon which Professor Jenks places special emphasis are: that the work of government will always be imperfect because of the human element which determines the larger part of political activity; that in legislating against human vices more can be accomplished by indirect than direct methods "because there is no reformation possible short of the development of self-control": that political methods, practices and institutions when they have served their purpose in society should give way to newer and better institutions by a process of gradual change; that the good of society should always be placed above that of mere selfish desires when the welfare of the individual is in conflict with that of the people at large. As an introduction to the study of politics for "American citizens who are willing to aid in the improvement of conditions as far as they think practicable" this small volume is one which ought to be widely read and studied.

CHARLES G. HAINES.

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The Break Up of the Poor Law: Being the Minority Report of the Poor Law Commission. Edited by SIDNEY and BEATRICE WEBB. (New York: Longmans, Green and Company. 1902. Two volumes. Pp. xvii, 601; xiii, 345.

It is a matter for congratulation that Mr. and Mrs. Webb have seen fit to republish in convenient form the second half of the immense blue book, containing the report of the royal commission on the English poor law, which was issued by the king's printer in February, 1909. This blue book runs to 1238 folio pages, and its very size and clumsiness make it most improbable that it will be widely read. The minority report, which is signed by four of the eighteen members of the royal commission—Rev. Prebendary, H. R. Wakefield, Mr. Francis Chandler, Mr. George Lansbury, and Mrs. Sidney Webb—is founded in large part of the same evidence as the majority report, and in many respects is in agreement with it. The main difference between the two reports is that the minority report recognizes the evils, which were acknowledged and deplored by the whole commission, to be the result of the poor law system rather than to be due to the shortcomings of the members of the present boards of guardians. The remedy, therefore, is considered by Mr. and Mrs. Sidney Webb and Mrs. Webb's three colleagues of the minority, to lie in a complete change of system rather than in a mere change of name from boards of guardians to public assistance committees; or in any change of area, or of method in selecting the members of the committees or boards. The majority report recommends the retention of the system of dealing with all forms of destitution, except lunacy—with old age, sickness, widows, children and the able-bodied unemployed—through one authority; but desires to get rid of the evils that have crept into English poor law administration by a change in the name and constitution of this authority.

The minority members, on the other hand, freely recognize the integrity, humanity and ability of the men and women who form the present boards of guardians. "We have found," they write, "no evidence that the corrupt and criminal practices, which have unhappily occurred in certain places, are at all frequent or widespread. Nor have we reason to suppose that the evil influences of electoral or social pressure have been otherwise than exceptional. We have indeed been impressed by the vast amount of zealous and devoted service, unremunerated and unrecognized, that is being rendered in all parts of the poor law administration of the United Kingdom by men and women of humanity and

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experience. We ascribe the defects and shortcomings of the present administration of outdoor relief to the very nature of the local authority to which this duty is entrusted." And again when reviewing the condition of the children under the poor law they write: "We have indeed been much impressed by the humanity, zeal and self-sacrificing industry displayed by the members of these authorities—especially the women members—in all their dealings with the children. The failure is certainly as great in the large unions, wielding practically the whole powers of populous urban communities, as it is in the smaller ones. Thus no alteration in the membership, no enlargement of the area of the destitution authority, would remedy the defects that now stand revealed." The minority members do not believe that a mere change of name, nor a change from popular election to a mixed system of appointment and co-option would effect the necessary reformation. The reason for the failure of the English poor law and for its gradual supersession by the sanitary authorities in the provision of isolation hospitals and other medical services; by the education authorities in the provision of meals for underfed children; and by the distress committees of the municipal councils in providing work for the unemployed, lies in the miscellaneous and incompatible nature of the duties which are now entrusted to the boards of guardians. These duties are typified in the general mixed workhouse, which is anathema to Mr. and Mrs. Webb.

The general mixed workhouse has been condemned by every poor law commission since 1834. When the great reform of 1834 was effected, the recommendation of the poor law commission of 1832–1834 and the intention of parliament were that each union should carefully seggregate the different classes that came under their care. Separate buildings were to be provided for the sick, the aged, the children and the able-bodied unemployed. The result, however, of entrusting all these classes to the same authority was the erection of one strong, efficient building instead of the series of detached and specialized establishments. The minority report reviews the efforts that have been made by the local government board to induce the boards of poor law guardians to give specialized treatment to the different classes under their charge. These efforts have been especially urgent in regard to the treatment of children, and yet the poor law commission of 1906–1909 found that there were no fewer than 15,000 children in the general mixed workhouses of England. It is not that the boards of guardians have made no attempt to carry out the directions of the local govern-

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ment board. Experiment after experiment has been made in setting apart buildings for the aged, for the children, and for the vagrants; but in every case after a few years the tendency to crumble back into promiscuity has made itself manifest. This tendency is chiefly due to a sense of economy. The destitution authority is always apt to have an unequal balance of cases to attend to. The specialized buildings are not fully used by the class for which they are intended, and the tendency is to fill up the vacant places with the overflow of other cases. A large number of examples of this tendency are given. Bradford, in Yorkshire, erected "a charming quadrangle of separate tenements for their respectable aged" and yet, because there was some room to spare, they could not resist the temptation of placing in it their sane epileptics, nor even, a little later, of using vacant space for a test yard for able-bodied men who had to be placed under the same superintendent as the epileptics and the respectable old men and women. Poplar, Kensington and Birmingham established test workhouses with severe labor regulations for able-bodied men. These were so great a success in keeping the able-bodied off the poor law that the workhouses stood half empty. The temptation in each case proved too great. The vacant space was filled with semi-able-bodied, infirm and aged, and the rigorous labor test could no longer be enforced. These establishments again crumbled into general mixed workhouses.

Except for the workhouse nurseries, and for the arrangements for the care of infants and little children in the general mixed workhouses, the minority finds no cause for scandal in the management of modern English workhouses. "We have," reads the report in the section on sickness, "come across in workhouse sick wards no such scandalous instances of overcrowding, of dirt or insanitation as were formerly revealed in workhouse enquiries, and, we are glad to add, no such neglect or inhumanity." The workhouses are usually understaffed both as regards the care of the sick and of children. Pauper inmates are utilized as far as possible for this important work, but this is chiefly due to the fact that the whole of the English poor law is based on the idea that the lot of the pauper must be made less desirable than that of the lowest grade of self-supporting laborers, and also on the fact that one of the most important duties of the boards of guardians is to "save the rates," to reduce expenditure to as low a level as possible.

The remedy for the evils which have been made startlingly prominent through the enquiries of the poor law commission, which is put forward by the minority of the commission is simple, scientific and statesman-

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like. Already, they point out, the poor law has begun to break up. Sanitary authorities have trenched upon its province as regards infancy and sickness; local education authorities as regards children of school age; lunacy boards in the care of the insane; pension committees of the central government in the provision for the aged, and municipal councils in assisting the unemployed to find work. Everywhere there is waste and confusion due to these overlappings. It is plainly impossible to turn back and to stifle the activities of these younger and more modern brothers of the poor law. The only possible course is to eliminate the old, unspecialized destitution authorities, and to let each of the newer authorities cover completely the special field it has already made its own. To coördinate all, to prevent overlapping, and especcially to enforce personal, parental and family responsibliity, there must be an official register, appointed by the central government, who, acting on principles clearly laid down by parliament, shall recover the cost of all relief from individuals relieved, or from their parents or children when any of these are in circumstances that justify such repayments. Parental responsibility which now means that if a man is able to support his children and fails to do so, the children are allowed to suffer or die, will then mean that the child shall not be short of food, shelter, clothing, or medical attendance; that the father must provide these, or failing to do so the state must step in and supply the needs of the children, collecting afterwards the payment from the delinquent father.

As Mr. and Mrs. Webb point out, there are still many details in the scheme of the minority which need further elaboration, and it may be a long time before any such scheme can be wholly carried out. But socialism has so far offered nothing in the way of construction, evolusionary statesmanship to compare with the plan outlined in these two volumes of the minority report of the poor law commission. In these volumes, the references to authorities and to evidence printed in the blue book are omitted for the sake of brevity and compactness; and, unfortunately for the student, Mr. and Mrs. Webb have not considered it necessary to add an index.

A. G. Porritt.

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Le socialisme à l'étranger: Angleterre, Allemangne, Autriche, Italie, Espagne, Hongrie, Russia, Japon, Etats-Unis. (Paris: Felix Alcan. 1909. Pp. 409.)

This is a collection of essays upon contemporary socialism, in which M. Jacques Bardoux treats of England; M. Gaston Isambert, Germany; M. Gilbert Gidel, Italy; M. Angel Marvaud, Spain; M. da Motta de San Miguel, Russia; MM. Kinzo Goraï and Michel Revon, Japan; and M. Andre Tardieu, the United States. The preface to the book is by M. A. Leroy-Beaulieu, and M. Pierre Quentin-Bauchart has contributed a final chapter on socialism and economic evolution.

Little attention is given by the authors to the exposition of doctrines, the aim being to give an account of contemporary social movements. It is stated that the object of the studies is to answer the question: "What are the organizations and actual tendencies of the working classes in the great nations of the world?" The book will prove very helpful to those wishing a summary of the chief facts of contemporary socialism: the studies do not purport to approximate a complete treatment.

The essay dealing with socialism in the United States, like that dealing with English socialism, is largely occupied with a discussion of trade unions and their policies. The discussion here given in connection with the concentration of capital and the increase of foreign immigration is well worth while. The treatment of the socialistic movement proper is not so satisfactory. No mention is made of the socialist party, and one is given to understand from the essay that the socialist labor party is now the most important political organization of the socialists in the United States. Probably owing to a printer's slip, 1887, instead of 1877, is given as the year of the organization of the party. The population of the United States in 1904 is placed at ninety-two millions. As to the attitude of American laborers toward socialism the essayist quotes from M. Ghio (*L'anarchisme aux Etats-Unis*): "L'idéal collectiviste très compréhensible dans une société militariste et bureaucratique, est trop restreint pour une âme américaine. Le peuple américain est convaincu que les maux dont ils souffre viennent beaucoup moins de l'organisation actuelle de la société que des lois défectueuses, des abus, de la corruption qui règnent dans le gouvernement. Cette disposition d'esprit ne saurait donc favoriser la propagande socialiste, dont la charactéristique est une haine inexorable pour l'organisation économique actuelle."

J. K. Towles.

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